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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MIKE CRAPO, a Senator from the State of Idaho.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Today is the National Day of Prayer. The prayer I am going to pray has been written by Rev. Billy Graham to be read across the Nation throughout the day.

Let us pray.

''On this National Day of Prayer, our Father and our God, we praise You for Your goodness to our Nation, giving us blessings far beyond what we deserve.

''Yet, we know all is not right with America. We deeply need a moral and spiritual renewal to help us meet the many problems we face.

''Convict us of sin. Help us to turn to You in repentance and faith. Set our feet on the path of Your righteousness and peace.

''We pray today for our Nation's leaders. Give them the wisdom to know what is right, and the courage to do it.

''You have said, 'Blessed is the Nation whose God is the Lord.' May this be a new era for America, as we humble ourselves and acknowledge You alone as our Saviour and Lord. This we pray in Your holy name. Amen.''

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 3, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MIKE CRAPO, a Senator from the State of Idaho, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. CRAPO thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

SCHEDULE

Mr. JEFFORDS. Mr. President, today the Senate will resume consideration of S. 1, the education bill. The bipartisan substitute amendment will be offered shortly, and debate on the amendment is expected to take most of this morning's session.

The budget conference report is expected to be completed in the House this afternoon. Therefore, the Senate will suspend consideration of the education bill to take up the budget conference report when it is received.

Votes will occur during today's session on amendments to the education bill, and possibly on adoption of the budget conference report. Senators will be notified as votes are scheduled.

I thank my colleagues for their attention.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1 which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Lo and behold, I believe we are actually ready to go to an education bill after talking about it for months and working actively on it for days. We are ready to proceed. I am pleased with that. I commend all those Members involved in trying to make it work.

I ask unanimous consent that following the reporting of the substitute amendment, the time between now until 12 noon be equally divided for debate between the chairman and the ranking member.

I also ask consent that prior to 12 noon and with the consent of both managers, Senator COLLINS may be recognized to offer an amendment regarding reading, and following that debate, the amendment be laid aside with a vote to occur at 4 p.m. today.

I further ask consent that Senator KENNEDY or his designee—and I understand that may be Senator HARKIN—be recognized immediately following the reporting of the Collins amendment to offer a first-degree amendment; further, that the votes on or in relation to the amendments occur in a stacked sequence at 4 p.m. Also, I ask that no amendments referenced in this agreement be subject to second-degree amendments, and, further, all debate time prior to the 4 o'clock vote be equally divided in the usual form.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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I further ask consent that at 12 noon, notwithstanding receipt of the conference report, the Senate begin debate on the conference report accompanying H. Con. Res. 83, and the time under the provisions of the Budget Act begin accordingly. Finally, I ask consent if time remains under the Budget Act following the 4 p.m. vote, the Senate resume consideration of the conference report to accompany the budget resolution.

Mr. REID. Reserving the right to object, I ask that the distinguished majority leader delete the last paragraph. We understand the intent of the leader. We are in agreement with the intent of the leader. We simply don't have the report yet. A couple members want to look at it. There will be no problem in doing that at a subsequent time.

I also say to the leader, in consultation with Senator KENNEDY, we would like also at an appropriate time to lock in the next two amendments so we can move this legislation. We are very anxious to move forward with this legislation. We would ask that we, in fact, do that, lock in the amendment that will be offered by the distinguished manager of the bill, the Senator from Vermont, and that on our side, the next amendment will be that offered by Senator DODD and Senator COLLINS.

Mr. LOTT. Are you asking that we make that change at this point?

Mr. REID. Yes.

Mr. LOTT. Mr. President, several suggestions were made. I will respond and accept most of the suggestions.

First of all, I had hoped to go ahead and get started on the budget conference report. It is very important, very urgent. We need to get that completed. I understand Senators need to actually see the report. It should be available within the hour. We are trying to get that to you, as we speak. I hope we can come back then and get an agreement later to go ahead and go to the conference report. However, following your suggestion, I modify my unanimous consent to delete the last paragraph.

Now, I do think it is also important to note that this agreement does not lock in a vote on the Jeffords substitute. We have it. Senators will have the next couple of hours to go through it. I hope we can enter an agreement in a reasonable period of time so we have the vote on the Jeffords-Kennedy substitute at 4 p.m., also. We are not including that in the request.

In view of that, I don't think we should go ahead and lock in the next two amendments at this time. Let's go ahead and get started on the agreement we have, get the debate on the Collins amendment and the Kennedy amendment, or his designee, and then in the next sequence we can get an agreement on the budget conference report, the vote on the substitute, and line up the next two amendments. I need to check with some of our people to make sure these are the next two amendments we want to consider. This is a step forward to get the process started.

I renew my unanimous consent request to include the first three paragraphs as read and delete the last one.

Mr. KENNEDY. Reserving the right to object—and I will not object—as far as our side goes, we know it will be the Dodd amendment. Could we leave the discretion to your side as to what amendment you offer, but could we at least have it in the consent agreement that the next amendment from our side would be the Dodd amendment?

Mr. LOTT. Mr. President, it is up to that side as to what would be the next amendment. I don't want to lock it in at this point because we need to lock in both amendments. I think we are getting started here, everybody is trying to be cooperative, but we need to get the vote on the substitute, then lock in the next two amendments and get an agreement on the conference report. I would rather not lock them in.

As far as that goes, if they are prepared, the next amendment would be the Dodd amendment. We don't dictate that at all.

Mr. REID. We would accept that. If I could ask the Senator from Massachusetts to yield, that would be fine with us. We do want the Dodd amendment to be our next amendment, in keeping with the agreement earlier in the day. It would be our second amendment. Whatever you want could be your second amendment.

Mr. DODD. The Dodd-Collins.

Mr. LOTT. We will check on that, and hopefully well before noon we can go ahead and lock in this next series of votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 358

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] offers an amendment numbered 358.

Mr. JEFFORDS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

Mr. JEFFORDS. Mr. President, this morning the Senate begins in earnest the consideration of S. 1, the Better Education for Students and Teachers Act.

I think it is fair to say that this is the most dramatic reform of Federal elementary and secondary education law since the enactment of the Elementary and Secondary Education Act in 1965.

The only reason we are on the threshold of such change is that a remarkable consensus has developed over the past few years with regard to Federal education policy. Senators from both parties and across the entire spectrum of political views have come to the realization that if we want to achieve real progress in our schools, we have to measure the progress.

This is easier said than done, of course. Schools are not producing uniform widgets, but educating children. Children come into the public education system with very different backgrounds and experiences. This results in students performing at different achievement levels. However, as the leading States have found, after a lot of time and hard work, you can assess students and use the results to constantly improve the education that you provide them.

At the same time, if we are going to place high demands on our schools and teachers and students, we must give them the tools they need to do the best job possible. That means extra help for schools that are struggling, high quality professional development for teachers, and choices for students in schools that persistently fail.

In early March, the HELP Committee reported the BEST Act by a unanimous vote 20–0 vote. The bill before us reflects the work of every member of the committee. Each one has contributed in significant ways to improving this bill and education in our country.

Since the bill emerged from the committee, we and our staffs have been meeting with Senators on and off the committee to reach agreements on further improvement to the legislation.

The substitute I am offering this morning reflects the results of our discussions over the past few weeks, incorporating the suggestions of a dozen Senators and contributions by the White House throughout the process.

For the benefit of my colleagues, let me touch on a few of the changes we are making in the substitute:

The first is accountability. At the heart of accountability is adequate yearly progress. Adequate yearly progress ensures that all students of each subgroup will make adequate yearly progress towards proficiency in reading and math over the next 10 years. The other key component of accountability, is providing mechanisms for schools to improve. S. 1, as amended, lays out a series of increasingly strong corrective actions that impact schools, local educational agencies and States that fail to meet the goals for adequate yearly progress.

I look forward to the debate and I especially look forward to passing a bill that will enable every child in this nation to have a first rate education.

Let me go to some other aspects of it.

The next one is supplemental services, a term you will hear over and over again. This is a new option for parents of children in persistently failing

schools. Supplemental services are educational services offered by public or private organizations outside the regular school day that are directed at providing such children with the knowledge and skills they need to meet the State standards.

Another term you will hear is Straight A's. Up to 7 States and 25 local educational agencies will be allowed to enter into performance agreements with the Secretary of Education that will trade increased flexibility for strong accountability.

Regarding bilingual education, the amendment before us establishes a trigger for converting the Bilingual Education Act from a set of federally run programs into a single, State grant program focused on helping all limited English proficient students attain fluency in English and master the academic content.

For testing, S. 1, as amended, authorizes $400 million a year over the life of the bill to pay for the cost of developing and implementing the new assessments required by the bill.

I look forward to this debate and passing a bill that will give every child a first-rate education.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I welcome the fact that we can finally turn to our work on reauthorizing the Elementary and Secondary Education Act, and during the course of the morning will begin debating two very important amendments. The first concerns the reading provisions of this legislation, which I think are such a commendable part of our whole effort, and the second, on which Senator HARKIN and Senator HAGEL have worked very closely to craft, regarding the challenges for our special needs children and local communities. The Harkin-Hagel amendment aims to strengthen the Individuals with Disabilities Act, particularly in providing additional relief in funding. In many respects the reading and IDEA amendments address a common concern, since many children with special needs are also eligible for the reading programs and title I assistance.

Now I will take just a few moments just to review some of the provisions that I think should give heart to many parents when this legislation is actually implemented, and that is the supplementary services under title I, which increase the help available to children in troubled schools.

Students in schools that have failed for at least 3 consecutive years will have the opportunity to receive the supplementary tutoring services during non-school hours. Students in failing schools get extra academic help after school while schools implement new reforms during the day.

Under the supplementary service provisions, parents of children in persistently failing schools—those in corrective action or reconstitution—will have the option to enroll their children in before-school, after-school, weekend, or summer tutoring programs.

The compromise extends learning time for students most in need of additional help. And the students in failing schools participate in a revamped, full regular school program during the day and receive additional help outside the school day.

The public funds remain in the control of the public schools. The supplementary services provision does not provide vouchers for private school tuition.

In contracting services, the school district pays State-approved providers for tutoring services. So any of the agencies that are going to be permitted to provide those services are effectively going to have to have a certification in terms of their educational competence. That is enormously important and basic.

Parents then choose a provider for their children from a State-approved list of providers. The parents then will be able to make the judgment about which provider they want to choose in order to get the supplementary services for their children. And with the information that is available—with report cards and other information—it is the hope and the expectation that the parents will be able to choose wisely. It will give them an additional kind of involvement in their children's educational development. It is a small part of this legislation, but as we have been talking about parental involvement in these general discussions, this is the kind of effort that we were talking about.

There is a cap on Federal funds available for supplemental services. Districts can use no more than 15 percent of the title I funds, and are not required to spend more than an equal amount to 15 percent of their title I allocation.

In addition, in order to provide tutoring services, the district cannot reduce the amount a failing school receives under title I by more than 15 percent. They can draw down so they can use their own money, or they can use the supplementary services money that is available at the State, or they can use funds under the Title V(4) program for which they will be eligible. That is our clear intention, that those funds will be available. We will make that clear as we move through the debate as well as in the legislative history.

Currently, many title I school districts contract with outside tutoring providers. The supplementary service provision differs from current law in that it requires failing schools to make after-school tutoring programs available. That is a requirement, not an option. It is a requirement. I think that gives additional kinds of protections to the parents.

The tutoring programs must be research-based and of demonstrated effectiveness. Only tutoring providers who are pre-screened for quality by States are eligible to receive the Federal funds.

Providers that fail to maintain a high quality of services and meet their annual performance goals will be removed from the State list of eligible supplemental tutoring providers. And tutoring services must be focused on academics and tied to the State standards and assessments.

The tutoring program ensures strong parental involvement. The parents and districts jointly develop specific performance goals for participating children and come to agreement on how individual student progress will be measured. So parents and districts jointly determine how parents will be informed of their child's progress. There will be information given to the parents and the schools so that they can monitor where these children have additional needs.

Providers must give the parents the comparative information about the quality of the tutoring programs available.

I want to give just a brief summation on what we call the Straight A's compromise.

The performance agreements pilot provides seven States and 25 districts additional flexibility in how communities use funds to implement public school reform. Funds can only be used for activities authorized under the programs that are eligible to be consolidated. Funds must be focused on public school reform. No funds may be used to support private school vouchers. States and districts are required to ensure the equitable participation of low-income students in private schools according to the requirements of the underlying bill. The performance agreements pilot continues the national focus on students with special needs. Migrant, homeless, immigrant, Indian education, and neglected or delinquent programs addressing students with special needs cannot be consolidated under the Performance Agreements Pilot Program.

In addition, the new Reading First Program cannot be consolidated.

The performance agreements pilot maintains targeting of Federal funds to the neediest students.

I hope our Members will pay attention to this. The title I funds continue to be targeted by poverty to the school level, maintaining the allocation formula in the underlying law. If a State wants to use an alternative formula, the formula must result in a greater percentage of the funds going to districts with the highest concentration of low-income children than under the current title I formula. It is a strong commitment that the funds go to the neediest children.

Other nontitle I funds allocated under the performance agreements pilot might be targeted to the district based on the same proportion of poverty as the underlying law requires. If the State uses an alternative formula, districts with the highest concentrations of low-income children must receive more funds than they would have received without consolidation.

So our pilot program assures that the funds, rather than being scattered across a particular State or a jurisdiction, will effectively be focused on the children with the greatest needs. That is not all.

The States and districts must comply with the title I provisions that require the development and implementation of standards and assessments: accountability for failing schools, disaggregation of assessment data, parent involvement, and the release of report cards at the State, local, and school level. So what we are giving is the assurance that there will be very strong and important accountability for these programs as well which effectively had not been in existence in the past. I think that is an improvement.

States may not consolidate title I funds set aside for failing schools. States must ensure that failing schools get the extra help they need to turn around by improving student achievement.

States and districts must also meet all the accountability provisions relating to teacher quality and improving achievement for limited English proficiency in title II and title III of the underlying bill.

States and districts must abide by title I provisions that require adequate yearly progress, school improvement, and corrective action. If achievement does not improve any performance agreement will be terminated. So there will be a termination of these agreements if we find out there are not positive results with very strong accountability. I think that is enormously reassuring.

The States may only retain 1 percent of all consolidated funds for administration. They may retain up to 5 percent of title I funds and up to 10 percent of nontitle I funds for State activities. All other funds must flow directly to the local school districts.

Applications by the States and districts are subject to peer review. The Secretary may only approve an application if it shows substantial promise for exceeding the State's AYP goals.

So you are going to have a peer review of the State's applications and findings. It will not be just at the discretion of the Secretary. I think that is an enormous improvement.

The proposal requires a study of the effectiveness of the agreements, how funds were used, and how funds were targeted under alternative formulas. We will gain a great deal of information.

Mr. President, since the Senate is poised to begin debate on the budget in the very near future, I want to take just a few moments to discuss the funding that will be needed to make the policies in this bill realities for America's children.

If you don't have a well-trained teacher in a classroom, whatever we do is compromised. Teachers need, and students deserve, the resources to teach. That is fundamental.

Republicans announced yesterday that they reached a deal among themselves on the budget, and the result appears to leave education out in the cold. They know the Nation overwhelmingly supports real increases for education, yet they boldly chose tax cuts over educating the Nation's children.

Senators will recall that there were two points to the vote on the education amendment offered by Senator HARKIN. The first was to reduce the size of the tax cut much closer to $1.2 trillion than $1.6 trillion, and the conference has respected this decision, choosing the smaller number. But the Harkin amendment had a second and equally important objective. It recognized that additional investments were urgently needed in our schools. All available evidence confirms this.

Only half of the eligible children have access to Head Start and its promise of school readiness for 3- and 4-year-olds. Only a third of the students in disadvantaged school districts are assisted with the broad range of quality enhancements that I have discussed under title I. The Federal Government is meeting well under half of its funding commitment to disabled students under IDEA, nearly 1 in 5 children are in oversized classes of 25 or more, and thousands of school buildings remain in such disrepair that they are unsafe or unfit for learning.

The basic improvements we're debating in this bill today will be impossible without additional investments in low-income school districts, teacher quality, early learning, smaller class sizes, special education, school construction, and accountability.

Yet the conference report on the budget appears as if it will ignore the will of the Senate on the core issue of education. In place of the major increases passed by the Senate, the budget proposes to freeze education funding at current levels. Because it abandons American school children and their parents, it does not deserve our support. I urge every one of my colleagues who recognizes the value of improved education for the long-term future of the Nation to denounce the budget that the conferees have produced, and ask them to try again.

Our current budget surplus means for once we have the resources needed to make major education advances in the coming years. We only lack the commitment to put our money where our mouths are. Will we step up to the plate on this issue, or will we just have more talk?

Republican budget negotiators found room for 1.35 trillion dollars in tax cuts over eleven years, yet they decline to guarantee that 0.008 trillion dollars (or $8 billion) will be available next year to fund the education increases that passed the Senate last month in Senator HARKIN's amendment. Their priorities are clear, and education is not among them, no matter what they say about education here on the floor.

The Nation can afford both tax cuts for everyone and real education improvements. But we can't afford education reform and the massive tax cuts for the wealthy that Republicans seek. The tax cut that budget negotiators appear set to adopt would allocate over $400 billion of the current budget surplus to the wealthiest 1% of Americans—those with average incomes of 1.1 million dollars per year—yet it provides only about 21 billion dollars to improve education over the next ten years.

Last month, Senator HARKIN won a Senate vote to shift $250 billion from tax cuts to education investments, still leaving over a trillion dollars on the table for tax cuts. Senator HARKIN's effort put the Senate firmly on record in support of education investments over the most extravagant of the tax cuts.

Republicans shut Democrats out of the conference on the budget, and then apparently disregarded the Harkin education amendment. They increased the size of the tax cut over the Senate level, and they vastly decreased education spending below the Senate level. The unfortunate result that Republicans now call a ''compromise'' is a compromise only in the sense that it compromises the futures of America's school children.

The Republican decision to ignore the Harkin amendment will have very real and immediate consequences for America's school children and their parents:

350,000 fewer students in disadvantaged school districts aided under title I;

115,000 fewer safe, educational after-school opportunities for youth;

100,000 fewer teachers improved through access to training and mentoring;

50,000 fewer children in Head Start;

16,000 fewer teachers to reduce class sizes in the critical earlier school years;

100 fewer crumbling and unsafe schools repaired; and

continued delinquency on the Federal Government's promise to help children with disabilities access a quality education under IDEA.

These are just the consequences for the next school year. Over the next decade, the consequences of ignoring the vote on Senator HARKIN's education amendment will guarantee that we will fall further and further behind on the work before us, including:

19,000,000 fewer title I-aided classroom slots that dramatically improve the quality of education available to students in disadvantaged districts;

7,000,000 fewer safe and educational after-school opportunities for youth;

2,750,000 fewer children in Head Start;

2,000,000 fewer opportunities for teachers to build skills by training and mentioning;

50,000 fewer teachers every year reducing class sizes in the critical early grades; and

2,000 fewer crumbling and unsafe schools repaired.

Many of us on the Democratic side of the aisle point out that if we can't or won't do the work before us in one year, we must at least make a commitment to finish the work in a specific number of years. The key example is our goal of full funding for title I within the next 4 years.

The Republican response on this point is noteworthy. They say it's impossible to commit to funding levels for specific education programs in any year except next year. But that's clearly not their position on taxes. They're proud to say just how much they'll cut inheritance taxes for the wealthiest 1% every year, all the way to 2011.

The policy changes that we enact during this ESEA reauthorization debate will make no practical difference for children if massive tax cuts leave nothing but crumbs for education.

The bottom line for the budget now nearing completion is that it squanders an historic opportunity to improve America's education system in favor of tax breaks that only the wealthy will ever notice. It is a disgrace, and it reduces all of the education speeches we've heard from our Republican friends to empty platitudes. I will vote against this anti-education budget and I urge my colleagues to reject it as well.

If the budget we will be debating in just a few hours had not eliminated the Harkin amendment, the children of the country would have received a major boost. You cannot educate children on the cheap. You can't do it with a tin cup budget. We know what works and what doesn't.

The education proposal we are endorsing today is a framework, but without resources, it will not be successful. If you just have resources without reform, you jeopardize success. But if you have reform, given the current unmet needs, you guarantee failure. What we are challenging this President and this administration to do is to provide the necessary resources.

This Senate went on record in a bipartisan way to say: These are the types of resources we believe are necessary for the children of this country over the next 10 years. The Budget Committee eliminated those. It was wrong. We want the President to speak up. We want him to say, at least in the area of Elementary and Secondary Education, and in particular in title I, we want to have the funding that is necessary to support the policies that we both agreed to place in this legislation, so that the benefit of the supplementary services and other protections will be available to these children. Otherwise, the words about reaching every child in this country within 10 years is a cliche. It is a shibboleth.

That will be the crux of the debate over the next 2 weeks in the Senate. We will be debating issues of policy, but make no mistake about it, we will be debating the issue of need, of investment, of the type of future we are going to have in this country. That is what this is all about. Our children are the future. We know the results. If you have children who don't learn algebra by the eighth grade, they're much less likely to go to college. That is a fact. Any educator will tell us that.

When 80 percent of eighth graders lack trained math teachers, we can see what is compromised in terms of the children of this country. At a time when we need their talents, their involvement, and their help in leading the United States in the world community, we fail to provide them the resources they need to build a strong educational foundation. That is what this debate over funding is about. It is about our future.

We know what is out there. Twenty percent of the children in the United States live in poverty; 10 million children are eligible for title I services. We are only reaching a third of them. So if we are going to give life and meaning to ''leave no child behind,'' we ought to be out front finding ways to reach all of them, not skimping on the 10 million children who are eligible under this legislation, and who look to us for help.

We on this side of the aisle, without exception, believe we ought to fund the title I program fully and reach all 10 million children. We challenge our fellow Senators on the other side of the aisle to join with us and ensure that the promise and the pledge of this legislation will be a reality, not empty words. The only way this is going to happen is through a serious commitment to funding.

Nothing concerns me more than the reported absence of the Harkin amendment from the final budget agreement. I don't know where it went. I can remember—maybe others can speak to it—when we were briefed by our Democratic budgeteers about how the budget conference came together. They were not allowed to take part in any of the decisionmaking process. I asked them: Whatever happened to the Harkin amendment? They said: You have to look through the numbers and try to find it, but Republicans haven't released the numbers yet. We went over and talked to the staff.

Whatever happened to the Harkin amendment? We still want to know. When Senators are explaining the budget this afternoon, I hope they will tell us what happened to it because you can't find it. It is not there. It is not here; it is not there. It has just disappeared.

The need has not disappeared. The need for those Head Start Programs has not disappeared. The need for the supplementary services on title I has not disappeared. The need to do something about better trained teachers and assisting professional development remains today as it existed on the day the Senate passed the Harkin amendment. Those schools that are crumbling; they haven't disappeared. The vote on Senator HARKIN's amendment, and the significance of the vote, after a very full and complete debate, has not disappeared. It is still there in the history books.

What has disappeared somewhere is the commitment of the Congress to take action and reflect our Nation's priorities in the budget. We're fortunate to have the resources to say, ''All right, we are going to have a tax cut, but we are not going to do it at the expense of the children of this country.'' But that is what evidently has happened. That is the regrettable choice made by the GOP.

I yield the floor.

Mr. JEFFORDS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. KENNEDY. Mr. President, will the Senator withhold.

Mr. JEFFORDS. I certainly withhold.

Mr. KENNEDY. Mr. President, we generally try to follow a format here, where the Members file their amendments, and then those who were the principal sponsors speak to them, and those others who are in support or in opposition get an opportunity to address it. I welcome the opportunity to do so.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I understand a number of colleagues are on their way to the floor to lay down amendments. However, I thought this might be a chance to speak for a short period of time about the substitute amendment that was laid down by Senator JEFFORDS but is the result of negotiations among a number of Members of this body and the administration that is presently under consideration.

As we consider the substitute, first of all, I give credit where credit is due. First, I will give credit where it is due to my colleagues from both parties and then raise questions about the result of these negotiations that we will consider in this substitute.

I say to Senator KENNEDY, in particular, how aware I am of the yeoman's work that he and his staff have done to modify some of the most troubling aspects of the issues that were under consideration, especially the block-grant proposal that has been known as Straight A's. And, I know

that Senator JEFFORDS and his staff have worked hard over the last few weeks as well. Other Senators have been part of those tough negotiations as well and, in particular, I commend those Senators who worked to remove some of the most troubling aspects of the parts of this amendment that were up for discussion.

This morning I just want to discuss two parts of the substitute amendment: the so-called Straight A's proposal and the proposal to allow some Title I dollars to be used for supplemental services such as tutoring.

Straight A's is going in the direction of block-granted education money to up to seven states and 25 districts. I do recognize that a number of important programs, for example, the migrant program, homeless, immigrant, Indian education, neglected or delinquent children programs, the programs focused on students with special needs, will not be consolidated. This is important and I thank my colleagues for their yeoman's work in protecting these crucial programs from consolidation. This is important because we made a national commitment that those students coming from families and communities which are most vulnerable—take, for example, homeless children or the migrant farmer worker population. We said we would not all of a sudden leave to State and local communities whether or not they make a commitment in these areas. So, again, I thank my colleagues for the work they have done to make sure that we continue with these commitments. I also appreciate that, while title I is consolidated in those states and local districts that are granted these performance agreements, tough negotiations have assured that these programs will remain targeted to the poorest children.

On the other hand, there are other additional programs, including afterschool programs and teacher quality that are block-granted here. My own view is we are going down a dangerous path. We have moved away from an important commitment. The commitment we have made is we are a national community, we are one Nation, and there are certain decisive priorities we have. Two of these are additional help for kids for afterschool programs and a national commitment to teacher training. I think this is a slippery slope. It is a huge mistake to move away from a national commitment to these priorities. I come to the floor to say this part of the agreement is not a step forward. I have some deep concerns about this move.

I know people negotiated in good faith and, as I have said, this part of the agreement is much better than any Straight A's proposal that we've seen in the past. One thing I appreciate is that if local school districts can make the case vis-a-vis a statewide education agency that has been named a block grant recipient that, as a local district, they do not want to be part of the block grant, and if they want to continue to receive money for these important national programs, they can do so. However, I also understand that the State agency will ultimately be an important player in the decision about whether a local district can opt out.

As a former community organizer, when I think of grassroots politics in any State in the country, I don't think the grassroots level stops at the Governor's level. I don't think the grassroots is the Governors, I don't think the grassroots are Senators and representatives, I don't think they are statewide education agencies. The grassroots are at the local level.

There are decisive priorities for our Nation, no matter where a child goes to school, no matter where a teacher teaches. However, I far prefer that the designing and implementation and creativity is done at the local level. So, this Straight A's concept fails both in recognizing the national commitments and fails in encouraging truly grassroots efforts in creative implementation. The state level is not the place for the decisions about these issues to be made. So, this block-grant proposal is my first concern with the agreement.

My second concern is that in consistently failing schools, up to 15 percent of the title I program dollars may be given to the parents of children in those schools for supplemental services such as tutoring. Now, this basic concept of providing parents with funds to pay for supplemental services is not one that I fundamentally object to. Because it promotes those students finding success in public schools, it is significantly different from a vouchers plan in which we promote students leaving public schools. And, once again, I recognize that my Democratic colleagues and their staffs involved in the negotiations did good work to build in a number of safeguards into this program. However, despite my basic support for the concept, I do have problems with this particular scheme for providing supplemental services.

My main point is that I don't really understand why we are going to take some money out of the title I program, which is already severely underfunded at the 30 percent level, to provide additional help for kids in other settings, vis-a-vis tutoring done somewhere else, even outside the public school system.

This perhaps is where I register my strongest dissent from the direction we are going at the moment. We don't yet have a final agreement on whether or not there is going to be a real investment of resources to back this bill up. As a result, we now find ourselves getting into a situation where we are actually going to be taking money away from the title I program, which is the program that is there for disadvantaged children. That doesn't make a whole lot of sense to me. There are other more specific concerns that I have with this proposal as well, but it is the taking funds out of disadvantaged schools when we should be focused investing more in these schools that is my fundamental problem here.

Finally, there are some important civil rights issues and questions that have been raised with the supplemental services program and with the afterschool program as it has been revised in this agreement. They both allow public funds to ultimately go to religious providers of these services. I am someone who has supported that basic idea that religious groups can play a key role in helping to solve social ills. And, I have seen the ways in which the religious communities can make a lot of very good things happen. But if we are going to put money in this direction, we ought to have some guarantee, some language, that says clearly that there can't be proselytizing in any of these programs funded by tax dollars. It is my understanding that such language is not in this agreement.

In addition, I certainly would not want any public dollars going to any religious organization without some type of guarantee that there would not be any kind of discrimination against any group of citizens in their hiring practices.

I actually think the religious community in many ways has done superb work. That is my view. That is what I voted for in the welfare bill. But I would raise these questions about protecting children against being proselytized to and about being sure that public dollars do not fund discrimination.

So I thought, as long as we are just at the beginning, that I would thank my colleagues for the negotiation. I thank my colleague Senator KENNEDY in particular for really being so strong and making sure we make migrant education and education for homeless children and others a national priority. That makes the block-granting portion of this agreement much stronger. I argue about some of the other programs that potentially could be block-granted. In general this is not what I think we should be doing. I think we are moving away from an important national commitment. And, as I mentioned, I think in some ways it is not decentralized enough. I think the statewide agencies will have too much control, versus the school districts, in the implementation of these programs.

Those are my comments on the substitute. Of course, I have other concerns about the base bill that really were not part of these negotiations. I will have an amendment that says we can go forward with this testing if in fact it is done the right way. So, I will ask you a number of amendments there. In addition to making sure we do testing the right way, certainly we should have a trigger amendment in this bill that says, when it comes to title I money, we must live up to our commitment so we make sure all these kids can do well before the actual implementation of testing takes place. The outcome of the vote on that

amendment will be extremely important to me.

I think what we have in this compromise is an example of where we can go amiss if we are not careful. Taking money out of title I to give additional funds to kids outside the title I program doesn't make much sense when you have such a severely underfunded program.

So, these are words of dissent based upon respect for what my colleagues have tried to do. Later on, as we get into this amendment and into other amendments, I know any number of us, including Senator HARKIN who will have an important amendment on the IDEA program, will have a lot of amendments. I look forward to really being in the thick of this debate. I am hoping—maybe I will even use the word ''praying''—that some of the amendments I have that I believe will prevent the abuse of testing, will prevent teachers having to teach to a standardized test, will actually encourage teachers to go into education as opposed to discouraging teachers from going into education, especially amendments that say we trigger this when we make an amendment to title I, will be accepted. I hope that we do the testing in the right way and that we make sure these children and these schools and these teachers have the resources to do well.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I have been discouraged at times about our Nation's willingness to deal with our fundamental educational problems.

The PRESIDING OFFICER. Excuse me, Senator.

Who yields time?

Mr. KENNEDY. I am glad to yield the Senator 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. I have 5 minutes?

The PRESIDING OFFICER. The Senator from Vermont has 30 minutes.

Mr. KENNEDY. Parliamentary inquiry: Is this the time divided earlier until noon? Is that correct?

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. Of that time, I only have 5 minutes?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield that time.

Mr. TORRICELLI. I thank the Senator for yielding.

Will the Senator from Vermont yield 5 minutes?

Mr. JEFFORDS. We are waiting right now for the first amendment which is in order, so I cannot yield this time.

Mrs. MURRAY. Mr. President, I do not have any objection to waiting for the Senator from New Jersey as long as I still have adequate time to offer my amendment.

Mr. JEFFORDS. All right, the Senator will have that time, and I do yield to the Senator an additional 5 minutes.

Mr. TORRICELLI. I thank the Senator from Maine, the Senator from Massachusetts, and the Senator from Vermont—indeed, the entire New England delegation—for helping me to make these remarks.

Mr. President, I have been discouraged at times about, not simply the issue of education in America but about the willingness in public policy to deal with these fundamental problems. The fact that so many Senators have given so much time, commitment, and energy to dealing with this problem is one of the most encouraging things I have seen in years. Perhaps the Nation is getting ready, in a fundamental way, to deal with our educational problems.

It is none too soon, perhaps, because we all recognize the same thing: America's educational problems point like a dagger at the heart of our national prosperity—indeed, one day even our national security. America cannot long endure with this standard of living without dealing in a major way, on a grand scale, with our persistent, almost endemic problems of education.

Indeed, there are a plethora of problems. Who would believe, under these economic and budgetary circumstances, that a great nation would allow its future leaders, the engines of its future economy, to attend classes in trailers, hallways, or gymnasiums? Mr. President, 2,400 schools need to be built in the next 2 years to relieve overcrowding and accommodate rising enrollments—2,400. In some communities with the property tax base, they may get built. In others where there is not, they will not get built. Every lost school, every child who will not meet his or her potential, is a social, economic, and even a political problem.

Our teachers, no matter how dedicated they might be, wage a battle with old textbooks and a dearth of modern technology. While we have made the Internet available to the smallest business and every government agency, only 27 percent of public school classrooms can even take advantage of this new asset of technology for learning even if they have a teacher who knows how to use it.

After years of study, we all understand that the problem of children unattended, without supervision in the afternoons is a principal reason for poor grades, dropouts from school, alcohol and drug use, and lives of crime. Indeed, violent juvenile crime triples in the hours after school.

Rising enrollments, inadequate school construction, inadequate technology, these are things that we have known and understood not for a year, not for a few years, but for a generation. Yet today we meet again to discuss these issues, recognizing that this afternoon 15 million children will arrive to empty homes or spend their afternoons on the streets when, indeed, they could have had supervision and used the time productively.

The question is not whether or not we are making insufficient progress. I believe the question is whether we are making any progress at all. The National Assessment of Educational Progress showed no improvement from 1992 to 2000 in fourth grade reading ability. Less than a third of the country's fourth graders read at a grade level that is appropriate, and the gap in reading skills between the highest performance level and that of our lowest performing students is widening.

I will recognize that during this debate, Senators will come with ideas from the left or the right. They will have radical solutions or modest solutions.

This much I believe about this debate. I hope that no Senator will come to this floor believing that anyone has a monopoly on good ideas, and that no one will come to this floor and defend the status quo because the status quo does not deserve defense.

The Bush administration enters into this debate and understandably wants to plant their own mark on educational reform. They have a right to do so. And, indeed, the administration's view is that accountability and improvement of standards in testing is part of educational reform, and that is correct.

All the money in the world will not improve American education and accountability. Reform of almost every aspect of American education is required. But as certainly as money is not the entire answer, it is certainly part of the answer.

Nine thousand schools nationwide have been identified as needing improvement. The number of low-performing schools is rising each year. Accountability of those schools will matter. It will shoulder the other problems that I mentioned. Accountability will not solve leaking roofs. Accountability alone will not bring technology to classrooms. Accountability alone will not retain good teachers.

There is a marriage of ideas of the left and the right, Democrats and Republicans.

Other aspects of the administration's plan should be supported. I have fought for years for educational savings accounts for K–12. It is time to enact them. It makes sense to bring private resources in to help with this growing national problem.

Charter schools are a tested and sometimes workable addition to the problems of public education. And they should be supported.

But as I reach across the aisle and commend the Bush administration on its ideas, I hope this much will be granted: There is no alternative to a large-scale, immediate national program of building new schools for America. One-third of America's public schools need major repairs or total replacement. There is a $322 billion backlog to build and modernize America's schools. This requires Federal resources. Local communities should not face a choice of ruinous property taxes or declining opportunities for their own children. We are the difference.

In New Jersey today we are beginning the Nation's largest school construction program with $8.6 billion for school construction. I am proud of it. It is needed. It is a good bipartisan plan, and it is impressive, unless you consider the scale of the problem. We are spending $8.6 billion. But New Jersey alone has a $22 billion need for school construction.

This year, my State saw the largest increase in enrollment in 20 years. Our fastest growing school districts need a new school constructed every 3 to 5 years.

That is why I am supporting the Harkin amendment to fund new school construction. As much as we need the Harkin amendment, we need to continue with our program of adding 100,000 new teachers.

I believe in time that the Clinton administration's greatest achievement, at least for my State of New Jersey and I believe for the country, may be the reducing of class size. Every study that has ever been conducted and every review that we have ever chartered has made clear that the greatest variable in the performance of a America's students is to reduce class size. And the goal of a national class size standard of 18 by adding 100,000 teachers, of which 30,000 are now employed, is the greatest variable and can make the greatest contribution.

I believe this marriage of ideas from Democrats and Republicans can make a real difference. I begin now by endorsing the Harkin amendment and by strongly supporting the continuation of our program of hiring new teachers.

I yield the floor. I thank my colleagues for yielding the time.

Mr. JEFFORDS. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. JEFFORDS. I yield to the Senator from Maine 20 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

AMENDMENT NO. 359 TO AMENDMENT NO. 358

(Purpose: To improve the Read First Program)

Ms. COLLINS. Mr. President, I send an amendment to the desk as a substitute to the amendment that is before the Senate.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 359 to amendment No. 358.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Thank you, Mr. President.

Mr. President, first let me start by commending the chairman of the committee, Senator JEFFORDS, and the ranking minority member, Senator KENNEDY, for their extraordinary work on this important legislation. They have shown real leadership in pulling the Senate together on what I believe may well be the most important legislation we consider this year; that is, the reauthorization of the Elementary and Secondary Education Act.

My amendment would make a series of improvements to an extremely important component of the bill, and that is Reading First. I have worked with my colleagues from both sides of the aisle as well as with the administration, the Secretary of Education, and the President to ensure that both the Early Reading First and the Reading First initiatives are truly focused on our goal of helping every child to learn to read.

We can do so much more to ensure that every child learns to read. Reading First is based on the principle that the best way to ensure that no child is left behind is to teach every child to read.

Reading First encourages States and school districts to take a preventive role when dealing with reading programs.

It would provide assistance to States and school districts to establish reading programs for students in grades kindergarten through the third grade to better ground specifically based reading research in order to ensure that every student can read at or above grade level by the end of the third grade.

It would provide assistance to States and school districts to better prepare our teachers who are on the front line and who are so important in this crusade.

It would give them professional development and other support so that teachers can identify specific reading barriers facing the students and have the tools that they need to assist their students in learning to read.

Reading experts tell us that children learn to read in many different ways. This isn't a case where one approach serves the needs of every student. Some students may need to put their fingers on their mouths when they say certain words to understand the sounds that make up those words. Others may need to clap out the syllables to understand how words are constructed.

These are examples of the kinds of teaching tools that Reading First will promote and that will assist teachers in learning.

The program would also provide assistance to States and school districts in selecting and developing diagnostic reading assessments that document whether children are learning and will also help us to assess the effectiveness of the Reading First Program.

Reading First would require us to make a real commitment. We should not require students to fail before providing assistance. And, yet, that is often what we do.

The most common intervention is placement in special education which for most children is simply not a solution. Special education services are not designed to solve a children's reading disability, and for the most part they do not. Our Early Literacy Program is well documented. Approximately 2.8 million students in the United States have been identified as having a learning disability. Of those, 90 percent have trouble reading. The good news is with proper, effective, and early intervention a learning disability can be treated, and children with reading disabilities can have the potential to achieve their full potential. The bad news is that most States do not now have the resources to establish the kinds of reading programs and early interventions that are most effective.

Reading First would address this problem. It provides a national focus on early reading intervention. It simply does not make sense to wait until the third grade to test a child's reading ability, find out that that child's reading skills are far below his or her peers', and know that the chance of that child learning to read by grade level by the end of elementary school is less than 25 percent.

By contrast, if a child is tested and receives help in kindergarten or first grade, that child has a 90- to 95-percent chance of becoming a good reader.

Since reading is researched more easily and effectively during the early years, identifying children who have problems with reading and providing them with the help they need early on is very effective.

Reading First is a comprehensive approach to promoting literacy in all 50 States. It will support the efforts of States such as Maine that have already made great strides under the Reading Excellence Act in promoting reading and literacy.

The Reading First initiative would provide $1 billion per year—that is triple our current commitment—to States and school districts to establish and enhance reading partnerships and to develop early literacy professional development programs for teachers.

We know that other than involved parents, a good teacher, with proper literacy training, is the single most important prerequisite to a student's reading success. We also know that reading is the gateway to learning other subjects and to future academic achievement. That is why it is so important that this bill make such a national commitment to reading programs.

The amendment I have proposed improves upon the Reading First section of the bill in a number of ways.

First of all, it would improve the targeting of funds so that more would be allocated to those local schools that have the most schoolchildren who are reading below grade level.

Second, it would clarify that each State's educational agency would be responsible for administering the program.

Third, it adds greater detail to the criteria that will be used to award competitive grants to States by specifying that a State must be able to demonstrate improved reading achievement in those schools that are receiving Reading First funds.

It would require the Secretary to minimize the amount of new paperwork for States that have already applied for and received a grant under the current Reading Excellence Act.

It would increase accountability by requiring States and local school districts to demonstrate improved reading achievement in schools that are receiving Reading First funds.

And it would require that, in carrying out the evaluation of this program, the Secretary assess whether it is having an impact on the identification and referral of young students to special education services under IDEA.

Let me just elaborate on this latter point. I firmly believe if we invest in early reading programs, and identify children who are having difficulty in learning reading early on, that many of those children will not need special education. The reason this is important is, once a child becomes part of special education, the chances of that child ever leaving special education are less than 5 percent.

We know that if we intervene early, 90 to 95 percent of children with learning disabilities can be helped. But if those children become part of the special education system, the chances of their leaving special education are less than 5 percent.

This is an investment that makes sense.

President Bush deserves enormous credit for placing reading at the top of our education agenda and for being willing to work with us—with Members on both sides of the aisle—to hammer out the best possible legislation.

Mr. President, I know the Senator from Rhode Island wanted 5 minutes to comment on this legislation. My statement is quite lengthy. What I would like to do is ask unanimous consent to be able to yield 5 minutes to the Senator from Rhode Island and then reclaim my time so that I can complete my statement, if that is acceptable to the managers of the bill.

Mr. JEFFORDS. Mr. President, I will keep control of time, but I am pleased to do as my colleague wishes, and I yield 5 minutes to Senator REED.

Mr. REED. I thank the chairman very much.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the Senator from Maine for the gracious yielding of time and for offering her amendment. She has offered a very admirable and very important amendment that will increase literacy in the United States. It tracks closely President Bush's proposals for increased literacy throughout this country. In fact, it builds on the Reading Excellence Act which this body passed in 1998. I believe it is a measure that should be broadly supported.

I, too, also commend Chairman JEFFORDS and Ranking Member KENNEDY for their efforts in the committee to bring this measure to the Chamber and, again, Senator COLLINS for her excellent amendment with respect to literacy in reading. I want to use this opportunity to not only commend Senator COLLINS but also to suggest that as important as her amendment is, there is a piece I believe that could be added to make it even better. That piece is providing access to materials in school libraries.

For years I have been advocating a return to Federal support for school libraries. Back in 1965, with the original Elementary and Secondary Education Act, the Congress passed an initiative that would allow—and did allow—school libraries to purchase library materials. It was widely successful. In fact, I will suggest that my colleagues go to any school in their State—particularly those schools in rural or urban areas—go to the school library and look through the shelves. I am sure you will find books that are stamped ''ESEA, 1965.'' You certainly will find many books with a 1966, 1967, or 1968 copyright. Sadly, that is the status of our collections in school libraries throughout this country: Many old and out-of-date books purchased originally by ESEA. We can do better and should do better.

The thrust of Senator COLLINS' amendment and the President's program is teacher technique, teaching pedagogy, and teaching instruction. But, as I said, there is another aspect; that is, having the materials available for young people to actually read.

Research clearly shows that the modern up-to-date library with new material contributes significantly and positively to student performance. The research consistently shows this. It suggests that we have to do much more in terms of not only providing new technique, new instruction, new pedagogy, we have to provide books and media for children so they can, in fact, practice what they are taught, and not only practice what they are taught but become enthused about using libraries and reading books. You cannot do that with some of the out-of-date collections we have in our school libraries today.

That is why, as soon as it is appropriate, I will suggest an additional amendment. I was tempted, momentarily, to offer a second degree to the Collins amendment, but I believe she deserves the opportunity to make her case undiluted by other proposals.

My proposal would, in fact, increase funding authorized for the President's program of reading and literacy so school libraries throughout the country could actually buy materials as part of the Reading First initiative and target these funds to the schools that are most in need, the highest poverty schools.

It would also provide districts and schools with the flexibility to use funding to meet local needs. There would be no preset list of books or materials. It would be a very local choice which they could use themselves to acquire what they need in their particular circumstances.

It would also encourage resource-sharing initiatives such as those that have been established in Ohio and Rhode Island, effectively linking all the school libraries together with public libraries and with academic libraries in higher education institutions, so that children can access, through computerized records, a vast array of material. This modern, updated approach can be another additional improvement in education throughout the United States.

Also, it would provide resources and support to train school librarians and those people who work in the libraries. Sometimes we overlook the fact that we have to have trained professionals in the library. It is not sufficient simply to have a teacher walk a class in and say, pick a book, children, and go out. It helps immeasurably if there is someone in that library who knows not only how to do research but also how to use library materials to enhance the education of all the children in that school.

This legislation I am proposing is based upon a bill I introduced along with Senators COCHRAN, KENNEDY, SNOWE, CHAFEE, DASCHLE, and others. It has been modified because, rather than being a separate stand-alone portion of the ESEA, this amendment that I will propose next week will be part of the President's initiative, part of the Reading First initiative.

It makes sense simply because we are all trying to focus in our resources and our attention. In addition, it responds to some complaints I have heard that this is not the time to embark on a new program. Let me, as a fundamental point, state that this is not a new program when it comes to school library support. In 1965, it was specifically authorized and funded under the original ESEA. In 1994, we reauthorized this particular library program. Unfortunately, it was essentially defunded in previous Congresses, and it was made part of a larger block grant. As a result, the resources have diminished significantly.

I commend the Senator from Maine. I look forward to her amendment. I ask her to consider, along with others, this improvement which I will offer at the soonest possible moment.

I yield the floor.

The PRESIDING OFFICER (Mr. FRIST). Who yields time?

Mr. WELLSTONE. Will the Senator yield 30 seconds?

The PRESIDING OFFICER. The Senator from Vermont controls the time.

Mr. JEFFORDS. I yield to the Senator from Minnesota.

Mr. WELLSTONE. In the spirit of working together, I know we will have

votes on these amendments. One thing I do want to get a chance to do is examine the substitute amendment. It is a huge package which just arrived recently. Before we have a vote on it, I want to get a chance to look at it so I understand it, and I want to be in touch with people in my own State. I suggest that we not vote on the substitute amendment until after Senators have had a chance to look at it.

Mr. JEFFORDS. We are allowing time for that purpose. We understand the Senator's concerns, and they will be accommodated.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is true that probably 5 or 7 percent of this has just been drafted, but 85 percent of it had been drafted and completed 4 days ago. The Senator is quite within his rights, but just for the membership, those on the committees who are interested, 85 percent of that has been in draft form. It is still a sizable amount.

Mr. REID. Will the Senator yield?

Mr. JEFFORDS. I will.

Mr. REID. I say to the Senator from Minnesota and others, we want everyone to understand the underlying substitute. They should have all the time they need to do that. In the meantime, we are constructively moving forward on the bill. The Senator from Maine has offered an amendment. The Senator from Iowa is waiting. It is my understanding you have another Senator to offer an amendment. We have Senator DODD ready to offer an amendment. We should be able to move forward on these amendments subject to the adoption of the substitute.

Mr. JEFFORDS. I thank the Senator. I agree with him. I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, now that the ranking Democrat on the HELP Committee has joined us, I once again repeat my praise of his efforts as well as those of the chairman of the committee. Senator JEFFORDS and Senator KENNEDY have done incredible work in bringing us together on this important issue, as has the Presiding Officer, the Senator from Tennessee, Mr. FRIST. I thank them for their efforts on what I believe to be such an important initiative.

To reach our goal of helping all children, of ensuring that every child knows how to read, the reading programs authorized by this bill draw on 30 years of research on reading and reading instruction. These programs will enhance our ability to help every child succeed. We know that we have a lot of work to do.

By way of background, I will share with my colleagues some of the troubling statistics about reading in this country: 20 million children are at risk for reading failure; 75 percent of children with reading difficulties who are now helped by the time they reach the age of 9 will still have poor reading skills at the end of high school. That is why early intervention is so important.

Eighty to 90 percent of children identified with learning disabilities have their primary deficits in reading and language-based processes. We know that fewer than a third of our fourth graders can read at grade level. We know that the reading scores on the national tests for reading have been flat for 30 years, and the recent release of the NAEP scores for this year would continue this flat line.

We need to do things differently. We need to increase the Federal investment. That is what this bill would do, by tripling funding for reading programs.

We also need a fresh approach. Fortunately, research provides reliable ways to determine whether children as young as age 4 are developing the necessary skills to learn to read. Early identification and effective early intervention can dramatically reduce the numbers of students who fail to learn to read.

Teachers have told me of the excitement they feel when they watch a child learn the strategies needed to crack the reading code. For some students it is a mysterious code, but teachers have proven over and over again that there are strategies and solid research that can bring techniques into the classroom to help children discover that they can, indeed, become good readers.

The ability to read unlocks the doors to all other areas of the curriculum. Children who can't read don't excel in other subject areas. In fact, nonreaders pull away from other academic subjects if they don't experience success in reading.

I find it so exciting that this country is now focused on reading. Reading is finally getting the attention, the support, and the resources it deserves. It has taken years for the importance of reading to rise to national attention. I give our President and the First Lady tremendous credit in focusing national attention on the importance of reading.

I believe we are about to take a great leap forward for this Nation toward increasing literacy. The amendment I put forth merely strengthens the provisions of the reading initiative in this important legislation. It will ensure that we have access to the information we need to determine whether this program is a success.

The bottom line: If we act swiftly and effectively to teach reading in the early grades, we will provide our children with the solid foundation they need for future academic success.

The Reading First initiative gives meaning to our commitment to leave no child behind by making certain that every child can read. This is critical because our Nation is in the midst of a monumental global change. Unlike previous generations who came of age when the United States was primarily an agricultural or manufacturing based economy, this generation coming to age now will need reading skills more than ever.

Information processing has become a required skill for so many jobs. That is why reading is so important. It is the basic building block for participating fully in our society. In this country of opportunity and promise, we owe it to our children to make sure they learn to read and learn to read well.

In closing, I thank the leaders of our committee and the National Center for Learning Disabilities, as well as the Department of Education and White House officials for working together with us to improve the Reading First initiative in this legislation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from Maine for a wonderful effort in making sure this bill will succeed. I commend her on it.

I yield myself such time as I may consume for purposes of supporting the amendment.

At a time when we are sending tourists into space, cloning animals, and integrating computers into every facet of our lives, reading continues to be one of the most important skills we learn in our lifetime. In fact, in this information age, reading has never been more important.

There are two programs in this legislation that have not received as much attention as some of the other provisions. Yet, these programs may be the most important parts of the bill. Because—while reading is the gateway skill to further learning, academic achievement, and success in the world—millions of school-age children are not learning to read well enough.

Over the past two days, several Members have talked about how too many of our children are not reading well. I have some charts that display just how serious the problem is, and what an emergency it is for our county.

Chart 1 gives an overall view. It is so discouraging, I want to take a few moments to let everyone absorb the contents of it.

What we are looking at here is the reading results for fourth graders from the most recent National Assessment of Educational Progress. This is a nationally representative study carried out by the Department of Education.

The results from the assessment are divided into four categories: Below basic, basic, proficient, and advanced. The proficient level is the performance expected of students at this grade level. That is where every child in America should be.

As you can see from the bar on the far left, 68 percent of all students are reading below proficiency in the fourth grade—68 percent are below proficiency in the fourth grade. A little less than 40 percent have not attained the basic level. That means 40 percent are really seriously failing, which means they have not mastered even the rudimentary skills of reading. This is inexcusable.

I will point out some other deficiencies in our educational system. We are the only Nation of the industrialized world that does not provide education paid for by the public sector for 3- and 4-year-olds. I point that out because that percentage of 40 percent is about the percentage of those who get no help in the 3- and 4-year level. That is our country. No other industrialized nation has that kind of a record.

As you look down the different bars on the chart, you can see that this overall performance actually masks the performance of the subgroups identified in the report. For example, only 12 percent of black students in the fourth grade are reading at the proficient level.

Now I want to point out the deficiency of our Head Start Program. We will be holding hearings on that later this year. The Head Start Program is designed to give custodial care and help and nurturing to young children. There is little or no effective educational part of that program. Therefore, we have to examine what we can do and note that the only program we have that really is in the area of help really does not provide the kind of educational help that is necessary.

Also, nearly 60 percent of Hispanic children are reading below the basic level.

Let us now turn to chart 2. If we look at the next chart, we can see that poverty, which cuts across all the groups on the previous chart, predicts a great deal of the low performance. Again, we have the same problem here with respect to percentages, and we find that our Nation, unlike any other industrialized nation, does not provide help to the young children, the preschoolers.

''Eligibility for free and reduced lunch'' is based on the income of a student's parents. As you can see, children living in families near or below the poverty line are much more likely to be reading at the basic or below-basic level.

Overall, these numbers have not changed over the past decade. They have not changed over the past decade. That means in the last 10 years we have seen no improvement. I serve on the Goals panel, and I have been there since it was initiated in 1990. We have not seen any significant change in the levels of education since that time, when we created the Goals panel to see whether we were improving.

One of the most noticeable changes in the data over time has been a decline in the scores for the lowest performing 10 percent. This means that those students who are furthest behind have been losing ground. That is totally inexcusable for this Nation.

What is so alarming about these statistics is that by the fourth grade, students are expected to have learned how to read well. Increasingly, they must read in order to learn about academic matter. The emphasis on teaching reading declines, and the opportunities to make up lost ground often disappear. There is clearly a relationship between the low reading scores for these groups of students, their low academic achievement in later grades, and the high rate of dropping out of school.

I can point to another study done by the Glenn Commission and also the stories we have with respect to improving in math. Even though our children, somehow, are average with respect to industrialized nations in the fourth grade in math, from that point, they slip down until they are last in the world by the time they graduate from high school. That is one of the most serious problems from which our Nation suffers. Again, it gets back to the basics of reading as well as, of course, understanding math.

Of course, it should be no surprise that these students, when they leave school, become adults with low levels of literacy. For example, in 1993 the National Adult Literacy Survey found that 20 percent of all adults—or more than 40 million Americans—scored at the lowest level of literacy on the assessment.

Finally, to bring this full circle, a recent report from the Department of Education, ''The Kindergarten Year,'' found that the children of parents with less high school education arrived at kindergarten with far fewer language and literacy skills than their peers who had better educated parents. In fact, when these children left kindergarten, they scored lower on these skills than when their higher performing peers entered kindergarten.

This is the current situation:

Some young children fall behind their peers before they even enter school; schools improve most students' reading skills, but they do not close the gap; these students are much more likely to fail in school and, even worse, to drop out later on; children of parents who themselves had difficulty learning to read, and who did poorly in school, are more likely to have reading difficulties.

So you can see what we have is a cycle of low literacy in this country. Now you can see why I think the Reading First Program and its companion, Early Learning First, which gets down to the 3- and 4-year-olds, preschool-age children, are perhaps the most important parts of this legislation that we will be passing.

I should add that the Even Start Family Literacy Program is also being reauthorized by S. 1. It is another important piece of our national literacy effort. That is working with both the parents and the children at the same time to make sure the family becomes literate together.

I commend the President for his leadership in proposing these reading programs and asking for funds to make them a reality. He provided similar leadership on this issue as Governor of Texas, with good results in Texas. I praise the President for bringing that experience to this body so that all of the country may share from it.

I also want to mention our First Lady, Laura Bush, who I know is also very interested. I have been with her at times when she has demonstrated that. She is deeply involved in the reading issue. She provided leadership on reading and literacy as the first lady of Texas and has taken special interest in the development of language and literacy skills in preschool-age children, as reflected in the Early Reading First initiative.

I believe very strongly that the only way we can close the gap between better performing and lower performing children in our own country and between American students and those in other industrialized nations is to:

Provide more opportunities for learning in the preschool years; second, improve instruction in our schools and give adults an opportunity to improve their own literacy skills.

I hope my colleagues will support these important programs—Reading First, Early Reading First, and Even Start Programs—in the overall legislation we are considering today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I congratulate my friend and colleague from Maine for an excellent statement and for her amendment. I am in strong support of her amendment. I spoke to her briefly yesterday about authorizing the Early Reading First Program at $75 million which complements the Reading First initiative by supporting effective approaches for improving the early language literacy skills of children age 3 to 5, and under the program, 4-year competitive grants may be awarded to school districts and nonprofit organization consortia, such as organizations that serve preschool children.

Her amendment is not only building on the Reading Excellence Act, and not only provides funds for children in the early grades, but also for the preschool children. That is an area of opportunity and need as well.

I am hopeful we will, over a period of time, build on that program.

I thank the chairman of our committee. No one knows this issue better than Senator JEFFORDS. He is the founder of the Everyone Wins Program in Washington, DC, and he is constantly urging Republicans and Democrats to join him in reading to a child at the Brent School. He and I shared that experience on Tuesday. I welcome that opportunity.

I know when he speaks about reading and the importance of reading, it is a deeply held belief and one that is rooted in his soul because he lives those words very effectively. It has been a

great opportunity. I have enjoyed participating with him in that program, and I know a number of our colleagues do as well.

Anyone who has any question in their mind about the importance of developing effective programs in reading, if they would spend a few hours—just an hour, actually, a week—they would be the most enthusiastic supporter of this program. It will have an enormous impact on the children. Most important, it will enhance their ability to learn. It will excite them about learning. It will give them countless joy in the future. It is a wonderful undertaking. The expansion of this program, which started a few years ago, will be enormously important. I look forward to working with Senator COLLINS in giving additional focus and life to the earlier interventions for children because that is of major importance.

Finally, we have heard a great deal about what title I has not done over the years. For the benefit of the membership, this chart is NAEP reading scores over the past 25 years. These are the constant scores for the same test. If you look at this chart from 1971 to 1999, you will see there has been a very modest increase in 13-year-olds over that period of time. There has been a very modest increase among black teenagers and Hispanic teenagers. There has been a very modest reduction in the difference between the races, which is encouraging.

It is interesting to note, if you look over what was happening to children during this period of time with increased poverty, an increased number of immigrant children, non-English-speaking children, that is also an indicator and has a significant impact on these numbers.

One can see looking at this chart that there is a gradual improvement for all 13-year-olds over that period of time.

The next chart is NAEP reading scores for 9-year-olds over the past 25 years. We see the same: a very modest increase for 9-year-olds and somewhat a closing of the gap among the other children as well, although it has been very modest.

The next chart is in the area of math. The significance of these charts show, if one goes from 1973 to 1999, for 13-year-olds, the line is moving in a positive direction. That is a hopeful sign. These are NAEP scores. If one looks at the black children, we see the gap, which was 46 points in 1973, has been reduced to 32 points in 1999 which is a very sizable reduction. There have been some rather important gains made in math.

Another chart, again the NAEP tests, the 1990 trends in academic progress, shows the gap closing in math for 13-year-olds. It was a 35-point gap in 1973, and it is down to 24 points. Again, those lines are moving in a positive direction.

This chart is the older children, 17-year-olds, and one will see a 52-point gap in 1971 down to a 29-point gap.

The point is we have a long way to go, but we have made some important progress.

The other important point about these charts is the schools that made the greatest difference had both reform and resources. That is why we come back to the basic point that is underlying this bill and why we have been able to fashion a very good, effective bill. In a number of ways, if I had been drafting it, I would have drafted it differently.

This is a very important bill, but it needs the resources to give these trend lines a real boost in the future. That is what we want. We want reform and resources. We are talking about investments in children, investments in the futures of children. Children are the future. We need those kinds of investments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I will suggest the absence of a quorum and ask that the time be equally charged.

Mr. JEFFORDS. I have no objection.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, under Senator KENNEDY's time—actually, under Senator HARKIN's time—I yield to the Senator from Michigan 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I first thank my colleagues on both sides of the aisle who are working so hard on this important issue of education: the chairman of the committee, Senator JEFFORDS, who is providing such important leadership; the ranking member, Senator KENNEDY. I congratulate him and all of the Members who are so deeply involved in focusing on what I believe is the most critical issue facing us in the future, not only of our children as it relates to their opportunities to succeed but to our economy as well.

We have all heard—as a member of the Senate Budget Committee, I heard time and time again in hearings—that we have an increased labor productivity that is driving this economy. The basis of that increased labor activity is an educated workforce. So the debate in front of us is critical.

I rise today in anticipation of an amendment that will be introduced later that I will be cosponsoring. It relates to an important part of providing resources and keeping the Federal Government's promise that was made 25 years ago concerning funding for special education for all of our local communities.

We have many educational priorities. But as I have met with the leaders and parents in communities all across Michigan, they have said to me time and time again, if you just did one thing, if you just kept your promise to fully fund your portion of special education, it would free up dollars for us to serve the other needs of children in schools.

This is critical in Michigan. We have had numerous court suits that relate to the State portion of special education. The lack of Federal support has caused a tremendous battle in Michigan over the resources for special education.

We have the opportunity now, in the context of debating the budget and the vision for the next 10 years and in the context of this important education bill, to set it right. I hear over and over again from superintendents and teachers and parents: If we are talking about economic good times, if we are talking about budget surpluses, why can't you keep your promises? This is an incredibly important promise to our children and to our communities. It needs to be kept. We are nowhere near meeting the commitment that was made 25 years ago.

Let me give an example. I should say I have been deeply involved over the years in the issue of advocating for our children in special education. In Michigan, the cost for the 1999–2000 school year was $1.2 billion for special education alone.

The Federal Government is supposed to provide 40 percent of that. But instead the Federal Government's contribution to Michigan schools was $120 million. I am pretty good at math. I know that $120 million is not 40 percent of $1.2 billion.

Unfortunately, the State has tried to make up part of those dollars. Local communities in Michigan have shifted over $420 million into special education that is supposed to be available for other critical needs in the schools: lowering class sizes for all children, putting more technology in the classroom, upgrading our math and science capabilities, and some issues that need to be addressed.

We have taken a large amount of resources in Michigan away from those needs in order to address the very important need of special education, one that the Federal Government agreed to help fund and has not yet kept its commitment.

Nationally, the Federal Government provides less than 15 percent of its commitment to IDEA, which is our special education funding. We are supposed to be providing 40 percent. We are yet to hit 15 percent.

We can do something about it right now. We have it within our means. I am urging my colleagues to do that.

I would like to share a couple of letters from parents, one from a teacher in Michigan, concerning this issue that has profoundly impacted the children and the families and the schools in Michigan.

Richard Spring from Manchester, MI, working in the Webberville School District, an important school district outside of Lansing in mid Michigan, wrote to me saying:

In small rural school districts, like the one where I work, the high cost that is incurred by the school district for special education makes it impossible to do a lot of the other things that we know are critical to providing adequate services to all students. For some kids, who don't necessarily qualify for special education, the impact is especially dramatic. For example, many students are on the ''borderline'' in school—there are a year or so behind where they should be for their age. Perhaps they were help back one year. These children do not qualify for special education in our district and there is no extra funding to provide services to help these students who clearly are struggling. This is because the district must carry such a high burden of the special education costs.

Around the time these marginal children reach middle school, they are no longer able to ''just get by'' in school without any additional services. Often, these students are so frustrated with school that they are diagnosed as emotionally impaired. These are the children whose behavior becomes so disruptive that it interferes with other children's opportunities to learn and a teacher's ability to teach.

This problem could be easily prevented if the federal government met its commitment of 40% funding for IDEA. This would free up the critical dollars that school districts need to provide other services, like assistance to students who are on the borderline. Even something as simple as summer school could make a difference in these children's lives. But the cost of special education is so high, that my school district has not been able to offer summer school in the seven years that I have been there.

I very much appreciate Richard Spring's letter to me, and I think he speaks very well to the struggles that are going on in our schools trying to meet the important needs of children and not having the Federal Government coming forward with its promise. We are great at mandating. We are great at laying out what ought to be done providing rules and regulations, and even when they are important and ones that I agree with completely. If we do not keep our commitment on resources, we are not keeping our commitment to children.

I also would like to read one other letter from a parent who wrote:

I am writing as a parent of a child with special needs. My son Paul is 11 years old. He needs an aide at school to keep him on track, organize his school work and home work and to interpret non-verbal information. He is a very work intelligent, sweet, easy-going child and this makes him one of the many who could fall through the cracks if special education funding is not improved.

The combination of growing enrollment and teacher shortages is putting a strain on our communities to provide quality education for our children. Our district . . . is especially struggling because of its high percentage of autistic students its very high percentage of severely afflicted children.

The need for federal education funding is greater now than ever before. I see how the special education teachers are overwhelmed with work loads because we can't afford to hire new teachers. Our special education budget is upwards of $500,000 in the hole for next year. All of our students are affected when we cannot provide services to our special needs children. Without appropriate funding, we must pull funds from other areas of our budget. Programs are being cut and education, as a whole, suffers. . . . Please vote and fight to fully fund the Individuals with Disabilities Education Act and make its funding mandatory.

Mr. President, I could not say that better myself.

Again, this is the time for all of us on both sides of the aisle who care deeply about the future of our country and deeply about the future of our children and families to take this unique time in history and keep our commitment because the resources are now there to do so.

I ask, if we do not pass today an amendment to fully fund special education, when will we? When will we have the opportunity again for our country to be able to step up and take a small portion of resources that are currently in hand and keep our commitment to the children and families of this country? Now is the time. We need to keep that commitment to special education.

I yield the floor. I thank my colleague.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from New Mexico, Mr. BINGAMAN, be allowed to speak as if in morning business for 10 minutes and that the time not be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank my colleague from Nevada very much for that courtesy.

(The remarks of Mr. BINGAMAN are located in today's RECORD under ''Morning Business''.)

Mr. BINGAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that time under the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. EDWARDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, the debate we are having this week and next week on education reform in this country may be the most important debate we have in the Senate this year. Education is probably the most important thing we do as a government. We have the best military, the best economy, and the best technology in the world. There is absolutely no reason that we should not have the best public schools in the world. We are the leader in so many other areas, and we should be the leader also in this area.

Whether you are talking to teachers, students, school administrators, or parents, you hear the same thing everywhere you go. I have townhall meetings in North Carolina regularly. I visit schools there regularly. You hear the same things every single place. No. 1, everyone wants to make sure that every school is a high-performing school. In other words, there is no excuse for there being a single low-performing school in America.

Second, we need fine, quality teachers, and we need to pay them well and keep them.

Third, we need to make sure that the performance of every single student in America is improved. That is what this education debate is about.

We should make this decade the education decade in America. My home State of North Carolina has served as a model for many of the reforms that have been debated. A few weeks ago, the Secretary of Education, Secretary Paige, came and told the committee that many of the ideas that this administration has proposed are, in fact, modeled after work that has been done in North Carolina. A centerpiece of that reform effort was a sustained effort at identifying those schools that are not performing and taking all the steps necessary to make sure those schools are turned around.

I am very pleased that we were able to insert in this bill, with the help of my colleagues, a specific provision, a proposal, a system that we have used in North Carolina to turn around low-performing schools. The concept is very simple, but it is very effective. Once the measurement and the testing has occurred and we identify a school that is low performing, we gather what is called a special assistance team, a team that exists for the purpose of going into low-performing schools to turn the schools around. It is comprised of educators, experts in the field, and people who know, based on their own education and experience, how to turn around a low-performing school. Those special assistants go into the school and do what is necessary to turn it around. They evaluate the academics

of the school; they evaluate the personnel at the school; they make recommendations about changes that need to be made to restore educational quality at the school.

Again, it sounds like a simple idea. You figure out a school is low performing and you send in a group of experts to turn the school around. It is a simple idea, but it works. It has worked in North Carolina. Since 1997, we have identified 33 schools as low performing. Into those schools we have sent these special assistance teams; their job it is to turn the school around. Since 1997, 29 of the 33 schools identified as low performing have now been turned around.

Now, there are, obviously, many things that have contributed to these schools being turned around, including a lot of work done in the local community. But these special assistance teams have played a pivotal role in turning these schools around. Their contribution is important. What we have been able to do, with the help of my colleagues on the HELP Committee, and with the able leadership of both the chairman and the ranking member, Senator KENNEDY, is to incorporate into this bill exactly at a national level what has been working in North Carolina.

There has been a lot of talk in Washington and nationally about reform. Reform is important. I support it—measurement, accountability, identification of schools that are low performing, and doing what is necessary to turn those schools around. That is the system. It is the system we helped start in North Carolina, and our North Carolina system has served as a model for what we are talking about nationally.

The problem, though, is tough accountability, tough reform will not work ultimately in many school districts unless the resources are available to turn those schools around. In poor school districts, once you go in and identify a school that is low performing, you test and measure, all of which are a good idea, and so is real accountability.

The problem is, if the special assistance team makes a recommendation, if the school does not have the resources to do what is recommended, it is impossible to turn those schools around. It gets to be a very simple proposition: You identify a low-performing school, and you send in the experts to tell them what needs to be done. But in order to change things, many times resources are needed because in these poor school districts all over America, they simply do not have the resources to do what needs to be done.

Without the resources, what you have is Washington, DC, telling people in local communities what needs to be done in their schools without giving them any help in meeting the standards that are being established. It is an unfunded Federal mandate out of Washington. It is the Washington people telling local people what they have to do and then not providing any help to do it.

North Carolina is a perfect example of how critical this is. In North Carolina, we implemented very tough measurement, tough testing, tough accountability. We identified these schools that were low performing and went in and intensely made an effort to turn them around. The critical component of that, though, was once those schools in North Carolina were identified, we made sure the resources were there to actually turn the school around.

That is why this debate over the course of the next 2 weeks is so critical because what has worked in North Carolina will work nationally. There is no excuse for us having a single, not one, low-performing school in this country. But the only way to get there is once we have done the testing, once we have done the measurement, once we have identified the schools that are not performing, the resources have to be available to turn around those schools. That is what we did in North Carolina. It worked. That is what we should be doing at the national level. It is what we are going to be talking about over the course of the next 2 weeks.

The budget debate, which is also ongoing in this Senate and will be ongoing over the course of the next several months——

Mr. KENNEDY. Will the Senator yield?

Mr. EDWARDS. Yes.

Mr. KENNEDY. We will be voting this afternoon on the Republican budget. We will be able to debate that under the time limitations, but it is coming back now with a little over $1.2 trillion.

The Senator, I am sure, remembers the debate we had on the Harkin amendment. This body, in a bipartisan way, gave instructions to the conference that there be $250 billion more committed to education. It is directly relevant to the matters about which the Senator has referred: To take what is working in North Carolina—and we might come back to that in a minute or two—to take those very excellent examples of how North Carolina has taken schools which were seriously behind in academic achievement and promoted those schools. I read where one or two of them are at the top in achievement.

As the Senator has pointed out, this is a blueprint we have which the Senator worked on in the committee and has been helping us fashion over the past few days.

Does the Senator agree with me that if we have this blueprint, what is going to give life to this blueprint is resources? It is about the future.

We are going to be voting on the budget proposal. The Harkin amendment had 19 million classroom slots for students. We are reaching 3 million now. There are 10 million children who qualify. If we had the Harkin amendment, we could have gotten to full funding of title I. We would have had 7 million more slots for afterschool opportunities for youth; 2,750,000 fewer children in Head Start; 2 million opportunities for teachers to build skills by training and mentoring; 50,000 more teachers every year and reducing class sizes in the critically early grades; 2,000 fewer crumbling and unsafe schools. That is what we voted for on a bipartisan basis.

We are not going to get a single one of those in the budget that comes here. Doesn't this concern the Senator from North Carolina when we are trying to take this bill we have all worked on in a bipartisan way and believe it is a fundamental building stone of the future of this country because we are talking about our children, and 20 percent, one out of five, are living in serious poverty in this country. We are trying to at least move——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield myself 10 more minutes. We are trying to make sure these children will not be disadvantaged in academic achievement and will be able to move ahead toward the American dream. That is what this is about.

I am wondering whether the Senator agrees with me that what was achieved in North Carolina took resources, took commitment, took a blueprint and would not have happened without the resources. With the resources, they were able to do it and what a difference it has made to those children.

Mr. EDWARDS. The answer to the Senator's question is simple. Without the resources, it would have been impossible to turn those schools around in North Carolina. It could not have been done.

I will give the Senator another example. On his list, he has 2,750,000 fewer children in Head Start. Every educator in North Carolina will tell you that a critical component of what we have done to improve the schools in North Carolina is our State program Smart Start. Without that, kids do not begin school ready to learn. They are not prepared to learn.

All these other things are very important, but this early childhood education is absolutely critical.

Another thing on Senator KENNEDY's list: Opportunities for teachers to build skills by training and mentoring. We have focused in North Carolina not only on recruiting quality teachers but continuing to train them, keeping them, increasing their pay, increasing their incentive pay when they perform well. Teacher training and compensation is absolutely crucial to make this work.

It gets to be a pretty simple proposition: No. 1, our kids need to start school ready to learn. That is what Head Start is about. That is what Start Smart is about. They need to have the best teachers possible. It does not do any good to have tough accountability,

which we support strongly. We are proud of what we have done in my State in that area, but you cannot turn the schools around if they do not have the resources.

When those assistance teams come in and make recommendations, that is great, but if the recommendations cannot be followed because the resources are not there to follow them, it serves no purpose at all. That is why it is so crucial that what we voted for in the Senate in a bipartisan way to help provide funding, $250 billion for our schools in this country—there is nothing, as Senator KENNEDY well knows; he has been a champion of this for a long time—there is nothing we do that is more important than educating our young people.

Mr. KENNEDY. I thank the Senator for his response. As he knows, this $250 billion did not come back as $200 billion or $175 billion or $100 billion or $50 billion. It came back as no dollars. I hope our Republican friends are able to explain that.

I want to ask a final question of the Senator. The State of North Carolina, as I understand, is one of 12 or 13 States that uses its own money to enhance the Head Start Program. Otherwise, I imagine it would be somewhat similar to Massachusetts where about 42, 43 percent of the children are in the Head Start Program. Some of the most urban areas and some of the poorest have lower percentages than that, 35 percent.

I was listening to a story about certain areas of the South Bronx are down to 25 percent because they have not been able to get the programs developed.

The State of North Carolina has a comprehensive approach. It has Smart Start and North Carolina also has the Head Start Program from which it is getting additional resources.

As I understand the position of the Senator from North Carolina, this ought to be a continuum. We ought to have early intervention with children, help them build confidence, help them build their interests in learning, help to open up their minds a bit to the idea of working with other students, as child psychiatrists point out, helping to develop a sense of humor so they can interact with other children.

They work in those areas, and also, in their Head Start Programs in a number of the North Carolina situations, they build into those programs the development of some academic challenges that are suitable for those children as well, in an attempt to make sure that when they actually get to the schools, they can benefit.

This is a pathway. I know the Senator is committed to each step along the way, as I am. But we are finding out that even if they take this, if North Carolina does what is necessary and they arrive at these schools, at the Federal level we are only funding a third of all those children, those who will be able to get the supplementary services, the other kinds of afterschool programs, the other kinds of help and assistance these children need. Does the Senator think this is important, that we try to build on what has happened in North Carolina, to meet our commitments to those children by covering all the eligible children in North Carolina?

Mr. EDWARDS. As the Senator well knows, there is nothing we do that is more important. These things all go together. I have been in these Head Start centers; I have been in these Smart Start centers; I see the effect they have on these kids' lives. It is absolutely amazing. You get children ready. Every study that has ever been done has shown the early years are the critical years. Once you get kids ready nationally with Head Start, Smart Start in North Carolina, then when they are in school, they need to be with quality teachers, well trained, well paid, treated as the extraordinary professionals and heroes they are. And not only that, they are in classes that are small in size so they don't have too many kids in the classrooms, particularly in those early years. It is absolutely crucial.

I say to the Senator, I hope as we go forward with this debate we recognize, while we strongly support real accountability, tough measurement, identification of schools that are low performing, going into those schools and turning them around, that there are other components to this process that are critical to making them work: Early childhood education, quality teachers, the kids going to school in decent buildings and classrooms, not sitting on top of each other in classrooms, afterschool programs so the kids have a place to go where they can be safe and off the street; that is what this is about. We have an extraordinary opportunity to do great things, not only for America but for our children and the future of this country.

Mr. KENNEDY. If I could ask the Senator one more question. As I understand it, North Carolina has this Teaching Fellows Program where it recruits talented high school students into the teaching profession—those with a minimum 1100 SAT, 3.6 GPA, and in the top 10 percent of the class—with priorities given to males and minorities. The program provides $5,000 a year for 4 years to 400 outstanding North Carolina high school seniors who agree to teach for 4 years following graduation in one of North Carolina's public schools or U.S. Government schools.

This is a model program in North Carolina. The Senator has spoken to it. Has he found this is a program that has helped North Carolina get the quality teachers who have made such an important difference to the children in North Carolina?

Mr. EDWARDS. This program has been extraordinarily effective. But the key to this is, it is just one step in the right direction. We need to be doing much more, much more to attract more quality students to the teaching profession, much more to hang on, retain the young people who are dedicated to teaching and want to do it for the rest of their lives. We need to make sure, No. 1, we get quality people, and, No. 2, once we get quality young men and women in the teaching profession, we keep them there with good training programs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I yield myself another 10 minutes.

There is one final area about which I would like to inquire of the Senator. I have a report here that says 36 percent of North Carolina schools report that at least one building needs extensive repair or should be replaced; 68 percent have at least one unsatisfactory environmental condition; 75 percent have crumbling roofs; 14 percent have inadequate heating; 22 percent, bad plumbing; 23 percent, poor ventilation; and 42 percent of the schools do not have sufficient power outlets and electric wiring to accommodate computers and multimedia equipment in classrooms.

You can use those figures. I think in my own State it would be higher than these. The point is, the GAO has talked about over $120 billion of needs out there in our schools. I am just wondering what the Senator from North Carolina believes. What sort of message do we send to our children if we send them to these schools in these conditions, when we have the opportunity—and, Lord only knows the resources, with a $1.6 trillion tax cut—that we are still not going to fix those schools up? What kind of message does that send either to the children of North Carolina or the children of Massachusetts who are facing these kinds of problems in schools? Should we not try to be a partner with the State and local communities, trying to help that situation? Does the Senator not believe, with me, that we are talking about these children, now, with this bill, to try to help these children to make sure the facilities they are learning in are going to be safe and secure—at least to respond to the breakdown of some of these buildings themselves?

Mr. EDWARDS. The Senator is right, we have made great strides, but I have been in elementary schools where there are no bathrooms inside the building, the roof is leaking, the floors are crumbling; they are covered up with little pieces of carpet. To get them in the lunchroom, they have to start going to lunch at 10 or 10:15 in the morning because it is so crowded, they can't get the kids through.

If you go down the road a few miles, there will be a brand new, shiny mall, new store buildings. The Senator is exactly right. What does it say to our children when they go to a new mall with beautiful buildings and the next morning they get up and go to school and the building is falling down? What does it say about what we care about, what our priorities are? This is all part

of the same issue we have been talking about.

We need to do all these things, and they are all critically important, from Head Start, in my case Smart Start, to getting quality teachers, keeping them trained, retaining them in the school system, having kids in smaller classes so they can learn more, having them in buildings that are not falling apart, having afterschool programs and technology available to them—this is all critically important. There is nothing we do as a government that is more important than educating our young people. We have a remarkable opportunity here, and I hope we take advantage of it.

Mr. KENNEDY. I thank the Senator for his very helpful comments. Virtually all of us on this side of the aisle believe these investments in our children ought to receive a priority.

I ask unanimous consent to have printed in the RECORD a letter sent by 43 different groups that have historically represented children and teachers and parents in schools, many of them for 75, 85, 100 years, urging full funding for the title I programs. Again, we are reaching a third. This is in support of the full funding of the program.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the National Council of the Churches of Christ USA, where they are recommending that we have the full funding for these programs because they understand what difference it makes to the children themselves.

I also ask to have printed in the RECORD the letter we have from the Governors that indicates if we are going to move ahead with this legislation, we should have funding for that program as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 26, 2001.

Senator EDWARD M. KENNEDY,
Ranking Member, Senate Health, Labor, Education, and Pensions Committee, Washington, DC.

DEAR SENATOR KENNEDY: As you continue your negotiations on the BEST Act (S. 1), the undersigned organizations write in strong support of your efforts to make full funding of Title I of the Elementary and Secondary Education Act (ESEA) a top funding priority.

Just as many of our groups support proposals to fully fund IDEA as a mandatory program, we also believe securing a similar and substantial increase for Title I is a critical piece of this year's ESEA reauthorization. Providing full funding for Title I is consistent with actions taken last month by the Senate HELP Committee, which unanimously approved increasing the Title I authorization level to $15 billion in FY 02—a significant increase over the $8.6 billion appropriated for FY 01.

As the cornerstone of ESEA, Title I supports instructional activities that help students in high-poverty schools meet high standards in core subjects. The program currently reaches some 10.3 million poor students nationwide, providing additional instructional time in reading and math and other activities that help students meet the same high standards set for all students.

Unfortunately, Congress has never met its obligation udner ESEA to fully serve all children identified as eligible for compensatory services under federal law. Over the last five years the average yearly increase for Title I has been only 3.6 percent. After factoring in inflation and enrollment increases, Title I has been flat funded. In addition, the Congressional Research Service estimates that, in FY 01, Congress provided local educational agencies with only one-third of the resources needed to fully serve all eligible students to help close the achievement gap.

Under existing law, school districts are eligible to receive 40 percent of their state's average per pupil expenditure (APPE) for each poor child within their jurisdiction. For FY 01, this calculation would be $2,457. However, because of the inadequate funding levels, school districts received an average of only $762 on behalf of the 10.3 million students eligible to receive Title I services in FY 00. In order to ''leave no child behind''—meaning all eligible children would receive the full services Congress authorized and for which they are eligible to receive—the average yearly increase for Title I over the next four years would have to be approximately $5.24 billion a year. The cumulative Title I increase over four years (FYs 02–05) would have to be $49.93 billion.

While we fully support measuring student achievement and holding schools accountable for improving that achievement, testing and accountability alone are not sufficient. Congress also must provide resources to schools most in need to enable them to implement reforms to increase student achievement, such as supplemental instruction, after-school programs, teacher and principal training, effective and research-based-curricula, and other reforms that schools and communities determine will help students. Fully funding Title I would also provide significant additional resources to turn around low-performing schools.

Given the projections of a growing budget surplus, we hope that Congress and the Bush Administration will reach an agreement that fully funds Title I over the next four years. This increase is essential to meet the needs of America's disadvantaged students, and accelerate current efforts focused on closing the achievement gap and raising standards for all children. We also urge that this increase in Title I, as well as increase for other critical education programs including after school, teacher quality, class size, and school modernization, not come at the expense of other important programs for children, but be funded by an overall increase in domestic discretionary funding.

We appreciate your leadership on this issue and support your efforts to secure additional funding for Title I during this year's reauthorization of ESEA.

Sincerely,

American Association of School Administrators.
American Association of University Women.
American Counseling Association.
American Federation of State, County and Municipal Employees.
American Federation of Teachers.
American Jewish Committee.
Americans United for Separation of Church and State.
Association of Educational Service Agencies.
California State Superintendent of Public Instruction.
Chicago Public Schools.
Consortium for School Networking.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of Great City Schools.
Hadassah, The Women's Zionist Organization of America.
Hispanic Education Coalition.
International Reading Association.
International Society for Technology in Education.
National Alliance of Black School Educators.
National Association for Bilingual Education.
National Association of Elementary School Principals.
National Association of Federal Education Program Administrators.
National Association of Secondary School Principals.
National Association of School Psychologists.
National Association of Social Workers.
National Association of State Boards of Education.
National Association of State Directors of Special Education.
National Association of State Title I Directors.
National Black Child Institute.
Natioal Council of Teachers of Mathematics.
National Education Association.
National Hispanic Leadership Agenda.
National PTA.
National Rural Education Association.
National School Boards Association.
National Science Teachers Association.
New York City Board of Education.
New York State Education Department.
People for the American Way.
School Social Work Association of America.
Union of American Hebrew Congregations.
United States Conference of Mayors.
Women of Reform Judaism.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE USA,
Federal Way, WA, February 2001.

DEAR SENATOR: As members of the National Council of Churches of Christ Committee for Public Education and Literacy we urge you to consider one of the great moral issues facing the 107th Congress—the Reauthorization of the Elementary and Secondary Education Act. As people of faith, we act in the awareness that children are a gift of God, made in God's image. The prophetic call for justice for the poor and excluded and Jesus' deep concern for ''the least of these'' reminds us that there are no more vulnerable persons than children in poverty. Because education is the only possible escape from poverty for millions of these children, Reauthorization of ESEA, especially of Title I, is a deeply moral issue. As you consider options in the upcoming debate, we urge you to keep several fundamental principles in mind:

Increase funding for Title I to at least $10.88 billion in FY 2002.—Full funding for all eligible children would require $24 billion, three times the current $8 billion funding. We support full funding of Title I and believe it is important to begin moving toward this target, because urban schools with concentrated family poverty need to be investing significantly more dollars to compensate for the ravages of family poverty.

Avoid punitive accountability. We believe accountability is important but it must not be accompanied by measures that further jeopardize the students who are already at risk.—While Title I has been criticized for failing to erase achievement gaps in this nation, Education Week (1/26/2000) reported that, ''Title I provides less than 3 percent of the country's total expenditures for elementary and secondary education. If Title I is expected to close the achievement gap, then conditions must be placed on how states and

school districts use the other 97 percent of the funds.'' Schools serving poor children depend on Title I funding for virtually all discretionary innovative programming, because state/local funding is inadequate and inequitably distributed across virtually all the states.

Maintain the overall objective of the federal Title I program. Resist efforts to convert Title I into block grants (Straight A's Plan or Charter States Plan) to any states.—The federal Title I program was designed in 1965 to compensate for what experts agree is the uneven and unfair funding for education at the local level due to reliance on property tax. State governments have done a poor job of compensating for disparities in local tax valuations; according to the U.S. General Accounting Office, across the country school funding in wealthy districts in 1998 averaged 24% more than in poor districts, even though residents of poor districts voted to tax themselves at higher rates.

Ensure that Title I funds continue to be targeted to the schools serving the highest percentages of very poor families, and to the poorest school districts.—Title I was designed to address the correlation of low student achievement with family poverty. A strong federal Title I program is even more important during the 2001 Reauthorization because during the past 36 years, the poor have been increasingly abandoned in the urban core as the middle class have moved to the suburbs. Declining student achievement is correlated with the isolation and concentration of families in poverty in specific districts and specific schools, and with the virtual resegregation of urban schools.

Emphatically oppose converting Title I funds into ''portable'' vouchers of any kind.—Thank you for your attention to Title I, our nation's strongest effort historically to ensure that no child will be left behind.

JAN RESSEGER,
United Church of Christ.
DAVE BROWN,
Presbyterians USA, Committee Staff.

REFORM WITHOUT RESOURCES WON'T PRODUCE RESULTS

EDUCATION LEADERS URGE SENATE TO NOT SQUANDER OPPORTUNITY INVEST IN KIDS AND EDUCATION

WASHINGTON, DC.—Education and civil rights advocates joined forces to urge the Senate to continue the fight for adequate education funding and not squander the opportunity to improve public education for all children. Following is a joint statement from the 16 groups:

''Reform without White House support for resources, won't produce results. There is no single piece of legislation that is more critical to our nation's children than the Elementary and Secondary Education Reauthorization Act—now is the time for the Administration and Senate to walk the talk of the 'no child left behind' campaign promise.

''Despite White House and Senate pledges of support for public education, accountability, programs that boost student achievement and basic civil rights are all in jeopardy in both the President's budget and a negotiated package under discussion in the Senate. Funding levels, civil rights protections, no vouchers, teacher quality, school repair and class size reduction must be resolved before we can support the Elementary and Secondary Education Reauthorization Act.

''Those children who need the most help are getting the least support under President Bush's budget. For example, under the Administration's plan, Title I would only fully serve one-third of eligible children in low-income districts. In contrast, the Senate bill approved in committee would double the number of children currently served and provide more than $500 million in additional funding to turn around low-performing schools.

''Glaring funding disparities between the Senate and White House proposals exist in the most critical education programs. The Senate authorizes a much-needed increase in education funding of $10 billion. Despite insistence that education is the number one priority of the new President, the Administration's budget provides only $669 million in increases for public education funding.

''Finally, we insist on strong legislative protections in the ESEA bill that would ensure that federally-funded after school programs abide by current civil rights laws. Friends of education and civil rights could never agree to a plan that would use taxpayer dollars to subsidize discrimination in any way. This is just simply unacceptable. The Senate is the only thing that stands in the way of this injustice—on behalf of America's children, we ask our nation's Senators to stand firm and complete an ESEA package that protects our children's civil rights and provides adequate resources to truly 'leave no child behind.' ''

—National Education Association, American Association of School Administrators, League of United Latin American Citizens, Leadership Conference on Civil Rights, International Reading Association, American Association of University Women, National Council of LaRaza, National School Boards Association, National Association of Elementary School Principals, National Association of Secondary School Principals, National Parent Teacher Association, American Federation of Teachers, Council of Chief State School Officers, National Urban League, The National Association for Bilingual Education, People for the American Way.

NATIONAL GOVERNORS ASSOCIATION,
April 13, 2001.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
The Capitol, Washington, DC.

Hon. JAMES M. JEFFORDS,
Chairman, Senate Health, Education, Labor, and Pensions Committee, Hart Senate Office Building, Washington, DC.

Hon. THOMAS A. DASCHLE,
Democratic Leader, U.S. Senate,
The Capitol, Washington, DC.

Hon. EDWARD M. KENNEDY,
Ranking Member, Senate Health, Education, Labor, and Pensions Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LOTT, SENATOR DASCHLE, SENATOR JEFFORDS, AND SENATOR KENNEDY: The nation's Governors call for full reauthorization of the Elementary and Secondary Education Act (ESEA) and support efforts by Congress and the Administration to see this important legislation enacted into law in the coming year. The Governors' priorities in this reauthorization are outlined below.

The overall structure of the major ESEA reauthorization bills currently being debated is to provide funding to state and local education entities but to hold states accountable for performance. For this structure to work effectively, there are four key areas of interest to the nation's Governors.

It is critical that the federal government not create new accountability systems, but utilize the existing systems in states. Any system of bonuses and sanctions should be based on state performance over time as indicated by the existing state accountability system.

It is important that new testing requirements are workable and build on the state's current testing system. What is critical is that every child in grades 3 through 8 be tested, not who administers the test.

The federal government should insist on a strong policy consensus in each state on how ESEA is implemented. This means that it should require both the overall plans as well as major funding allocations to be jointly signed by both the chief state school officer and the Governor.

There needs to be adequate funding of new accountability provisions, including full funding for the new testing requirements. This means a yearly appropriation for developing and implementing new state testing requirements as well as a yearly appropriation to cover the National Assessment of Educational Progress (NAEP) test.

Key issues for the Governors include the following:

GOVERNANCE

Elementary and secondary education policy is broadly defined in state constitutions, specified in state statutes, and implemented by school districts. Current federal education programs bypass the authority of the Governors to determine education policy for these programs by sending the funds directly to the state education agencies. Coordination of state and federal funds allows states to fully leverage education benefits to meet state reform and accountability goals. Therefore, the state education agency and the Governor should jointly sign all state education plans submitted to the federal government.

TESTING

Governors support the annual assessment of students in reading and math in grades 3 through 8 and believe that a combination of state and local testing satisfies federal assessments requirements. The Secretary of the U.S. Department of Education should have the authority to approve a state's assessment plan as being in compliance with any new federal requirement for annual student assessment if the plan meets the goals of federal accountability policy. In addition, Governors strongly support the use of accountability measures but these measures must be determined at the state level. Therefore, federal rewards and sanctions in any particular state should not be based solely on NAEP results but should rely on the state's own accountability system and should be shared between state and local education agencies.

FUNDING

In exchange for higher accountability for student progress, the federal government must provide additional financial support to states. The Governors support an annual flow of funding of several hundred million dollars to be used to assist low performing schools at state discretion and believe that no more than 50 percent should be required to be passed through to local education agencies. Both the chief state school officer and the Governor should jointly determine how these funds are spent.

Recognizing that development and administration of state assessment systems and the NAEP create a financial burden on states, local education agencies, and schools, Governors believe the responsibility for funding any additional federal testing requirements in all states should fall on the federal government. Although federal mandates may reflect well-intentioned policy goals, they often impose unfunded cost and regulatory burdens on states. Federal action increasingly has relied on states to carry out policy initiatives without providing necessary funding to pay for these programs, thereby limiting states of their right and responsibility to set priorities and develop policies that best meet local needs.

Therefore, the federal government should appropriate two separate funding streams to assist states in financing the federal testing requirements as follows. First, a yearly minimum appropriation of $400 million should be provided that is allocated to states to cover the cost of developing and implementing the new federal testing requirements for reading and math in grades 3 through 8. Testing every child in grades 3 through 8 would require testing four additional grade levels, for approximately 14.7 million students, beyond what is required under current law. At a cost of abut $27 per pupil, the total estimated cost of assessing all students in grades 3 through 8, beyond current requirements, would be about $400 million a year. In the first few years states, regardless of size, will incur similar costs for development. However, in the subsequent years the implementation and ongoing development cost should be calculated on a per pupil basis. Second, a yearly appropriation of $165 million should be allocated to states to cover the full cost of the NAEP test and incentives for local participation. Within this amount, $55 million in federal funds should be provided to compensate and/or provide for additional inducements to facilitate state and school participation in NAEP and other National Center for Education Statistics data collections, as recommended by the National Education Goals Panel's Measuring Success Task Force, and $110 million for the administration of NAEP.

In addition, states that have already developed the assessments and standards being discussed should receive their equal share of funding and should be able to use the funding they receive under this purpose for other activities related to ensuring accountability for results in the state's schools and local education agencies.

Any new overarching federal accountability requirements for states' public schools must also include a significant new federal investment. Governors believe that strong accountability systems are essential to driving reform at the state and local levels and call on Congress to recognize the federal responsibility in funding education programs. In light of that sanctions for any new federal education program containing accountability standards should not apply if those programs are not adequately funded by the federal government. The federal government has an obligation to fully fund education mandates on the states. Without providing states and Governors flexibility, autonomy, and adequate funding, it will be inappropriate and impossible to hold states and Governors accountable for meeting education reform goals.

PERFORMANCE PARTNERSHIP

The National Governors Association (NGA) supports giving states the option to negotiate a performance partnership with the Secretary of the U.S. Department of Education. Under this agreement, states could choose to consolidate one or more federal programs and federal funds into a single performance plan in exchange for being held to higher levels of accountability for improving student performance. If Title I funds are included in the partnership agreement, states would have to continue the targeting requirements under current law for Title I.

TEACHER QUALITY

Governors support and recognize the importance of having qualified teachers in the classroom and are undertaking efforts to address issues of teacher preparation, licensure, induction, professional development, compensation, and advancement. Through these efforts, states are making progress toward recruiting and retaining qualified teachers. A state's performance should be measured against its own progress and need for improvement, giving consideration to the efforts being made by the state to ensure a supply of qualified teachers, the supply of qualified teachers nationwide, and the circumstances of small rural schools. States should, however, retain authority to establish specific criteria for teacher licensing and alternative certification.

21ST CENTURY COMMUNITY LEARNING CENTERS

The Governors support providing students with extra learning opportunities to ensure that students can reach high standards. Extra learning opportunities provide school-age children with recreational, academic, and development opportunities that supplement the education provided during a typical school day. Research indicates that such opportunities improve the health of students and their ability to learn. Through the 21st Century Community Learning Centers program, the federal government has helped local communities create such programs. However, many states are now providing some type of extra learning opportunities for students. The federal programs run parallel to the programs that states and localities operate. In an effort to coordinate these funds and programs with the states' extra learning opportunities program. Governors believe that this program should become a state-based program.

SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

The Governors continue to place a high priority on making schools safe and nurturing environments for students. States have used federal Safe and Drug-Free Schools and Communities Act funds for diverse prevention efforts and they call for the continuation of a specific set-aside to assist Governors in implementing school safety and drug abuse prevention efforts.

IDEA

While not authorized through ESEA, we would like to take this opportunity to remind you that full funding of the Individuals with Disabilities Education Act (IDEA) has long been a priority to the nation's Governors. When the law, formerly known as the Education of the Handicapped Act, was passed in 1975, full funding was defined as 40 percent. States do not have the ability to limit their special education programs to the funding available and are committed to ensuring that every student is guaranteed a right to public education. Currently, the federal government's contribution amounts to only 15 percent and states are funding the balance to assist school districts in providing special education and related services. Although Governors strongly support providing the necessary services and support to help all students succeed, the costs associated with implementing IDEA are placing an increased burden on states. Therefore, Governors urge Congress to provide consistent and stable long-term funding for the federal share of 40 percent of Part B services as authorized by IDEA.

The Governors look forward to continuing to work with Congress and the Administration in developing effective bipartisan legislation to reauthorize federal education programs. We believe that our priorities for reauthorization of ESEA can serve as a road map to developing a strong bipartisan measure. Please contact us if you have any questions, or you may call Julie Manuel of the NGA staff at 202/624–7880.

Sincerely,

Governor JIM HODGES,
State of South Carolina,
Chairman, Human Resources Committee.
Governor BOB TAFT,
State of Ohio, Vice Chairman,
Human Resources Committee.

Mr. KENNEDY. This, we think, is a very compelling case, particularly juxtaposed against what we are going to be voting on this afternoon. We find it troublesome we are not able to get the strong support from the administration for the funding.

Mr. President, how much time do I have that remains?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. KENNEDY. Mr. President, since 1971 the Nation's schools have faced increased challenges, including higher poverty rates, an increase in children with special education needs, and steadily rising enrollment, with barely adequate resources.

Listen to this. From 1989 to 1995, the education expenditures for students grew by less than 1 percent. Between 1994 and 2000, during a time of increasing standards, rising enrollment, increased diversity in schools per pupil, expenditures rose by only 6 percent during that whole period.

From 1979 to 1998, the national child poverty rate increased by almost 15 percent. The numbers are going up, and poverty is going up in terms of the children. The poor children are becoming poorer.

We hear a great deal about what happened to these poor children. We haven't seen an enormous blossoming under the title I program when we spend about 1 or 2 cents in comparison to what is being spent by the States. We find that in most instances, cities which have the highest number of urban poor don't have the ability really to address this.

If we look at what the projections are going to be, from 2000 to the outer 90 years, we are going to double our population. We reach only a third of the children now. We ought to at least commit ourselves to reaching all of the eligible children now. If we are talking about the expanding numbers and extrapolated on that, the figures would be a good deal higher. We are just talking about trying to do what is necessary now.

From 1972 to 1998, the percentage of public school students who are a part of minority groups increased from 22 percent to 37 percent. From 1989 to 1997, the enrollment of limited-English-proficient students in our Nation's schools grew by 70 percent. During the same period, the total enrollment of students grew by 14 percent. In the year 2000, States reported more than 864,000 immigrant students enrolled in schools during this period of time.

This is what is happening. The poorer schools are expanding. There is a great deal more diversity. More languages are being spoken. In my State of Massachusetts, there are 43 different programs for different languages in the schools to try to help students.

There is the impact of the breakup of the family with all of the fallout that has on children. We see growth in substance abuse and growth of violence in our society. There has been very little done for these children.

With the fashioning and shaping of this legislation which is going to offer new opportunity and hope for these children, the principal question is, What is going to be the commitment of this body to make sure that it is going to reach the greatest number of children?

That is what we are distressed about at this time. If we are really interested in no child being left behind, we can't say we are satisfied with the funding commitment of this bill because it will only reach a third of them. If we don't reach out to the other two-thirds, this bill is effectively a cliche, a shibboleth, a slogan; it isn't real. And there has not been anyone on this floor since we have been debating or talking about this bill who has made the case that these resources are adequate to reach all of the children; they are not.

Under the proposals that on this side we support and that we are going to hear about with the amendment of Senator DODD and others, we meet the challenge as well under IDEA. Under the Bush budget, from 2001 to 2005, we will cover 4.2 million children out of the 13 million. Under our Democratic proposal, by the year 2005 we cover every child. And the $250 billion that went to the other side, if the budgeteers and if the leadership of the other side of the aisle had taken the position, would have come back in support of covering every child. But no; we are still back covering only a third. That is wrong. It is the wrong priority for this country because we are talking about the future of this Nation.

It is a mistake for the administration not to understand that we are going to continue to fight for this every step along the way until we get the funding for this program.

Mr. DURBIN. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DURBIN. I thank the Senator for his leadership not only today but throughout his career on the issue of education. I would like to ask the Senator if he would be kind enough to help me understand some of the elements.

When President Bush first took office, he invited a bipartisan group of Democrats and Republicans to come to the White House to talk about setting national goals for education. I thought it was a very positive conversation and dialog.

I know the Senator has been working with those on the other side of the aisle as well as the White House to come up with new ideas when we deal with education, whether it is accountability standards, testing, or improving teacher skills and the like. But I wish the Senator from Massachusetts would be kind enough to tell us how these ideas which are part of the better education for students and teachers are affected directly by the funding levels because as I listen to the Senator's discussion on the floor today, he is suggesting that the ideas may be good ideas but, if they are not funded, too few children will profit from them. If we are talking about values for American families, certainly we can't ignore two-thirds of our children and only help a third of them.

Can the Senator give us some idea whereas this lack of funding will have a direct impact on the education children receive in America?

Mr. KENNEDY. The Senator has asked the absolutely correct question. We are making the reforms in this legislation. The question is, Who is going to benefit and who is going to be left out, left behind?

This chart is a reflection of the budget where the appropriation was $3.6 billion for 2001. Under the Bush budget, there is requested $1.669 billion—a 3.5-percent increase. That was the request for this year—$3.6 billion, down to $1.669 billion.

We weren't reaching all the children. I wish we had. I wish the Democrats had done more in terms of education and the allocation of resources.

It is interesting. If you take the last 5 years of the Democratic administration, we averaged a 12.8-percent increase in education at a time when we were having the deficits in this country. Now we have the surpluses in this country and we are finding out that we are willing to request only a fraction of that. We are still only covering a third, which can bring you to only one conclusion, and that is that tax breaks for the very wealthy individuals, the 1 percent—we could take a small fraction of the tax breaks that are going to the 1 percent of this country, the top millionaires of this country. Only .008 of the tax break could fully fund title I. Imagine that. We are not even asking for 1 percent. We are not even asking for a half percent, a fraction of that. But no. No. We have to have the tax break.

I do not think that expresses the values of the American people. That is translated, I say to the Senator, into the children who are sitting there in those classrooms today—whether they are going to get the supplementary services, whether their teachers are going to get trained. Today in the classrooms across this country, in the urban areas, 80 percent of them do not have math teachers. If they do not get algebra in the eighth grade, they are never going on to college and they are never going to be a participant.

Mr. DURBIN. Will my colleague yield for a final question?

Mr. KENNEDY. Yes.

Mr. DURBIN. I see my colleague from Maryland, Senator MIKULSKI, is in the Chamber. I will be brief.

The Senator spoke about the dropout rates that face students in schools. I think we have all read the recent census data that suggests a substantial increase in the Hispanic, Latino population in America.

The dropout rate for white students in America is 7 percent. The dropout rate for African American students is 13 percent. The dropout rate for Hispanic, Latino students is 30 percent. It is higher among Latinos, Hispanic American women, than those Latino populations.

I say to the Senator from Massachusetts, how can we have this dramatic increase of people coming into this country and dramatic dropout rates in this population without terrible consequences for our Nation? Could the Senator address, in this final question, what we can do, and should do, on this dropout side that is not going to be done if we do not receive adequate funding supported by the Bush White House?

Mr. KENNEDY. The Senator is absolutely correct. Last year, there were about 450,000 to 500,000 children who dropped out. It is a challenge as to how we bring them back in. There are a number of very effective programs that are doing it, but they are dramatically underfunded. They are not prioritized either. We will welcome the opportunity to join with the Senator as this process moves forward to see what we can do to fund them.

I thank the Senator.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Maryland?

Ms. MIKULSKI. May I have 5 minutes?

Mr. KENNEDY. The Senator may have whatever time I have.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. KENNEDY. Could I ask the Chair, then, what is the time situation?

The PRESIDING OFFICER. Senator HARKIN has 41 minutes.

Mr. KENNEDY. I see.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Ms. MIKULSKI. Mr. President, yesterday I talked about the three R's that are needed in the Elementary and Secondary Education Act. If we have reform—which I am firmly in support of—plus resources, that equals results. But if we have reform minus resources, all we end up with is rhetoric.

So I believe we need to practice the three R's that give us the right results: reform, plus resources, equals the right results.

One of the ways that we can really help have reform is by really backing what we need to do to help our special needs children. We are going to be debating very shortly the expansion of the funding for something called IDEA, the Individuals with Disabilities Education Act. Some years ago, under the leadership of a former colleague, Senator Weicker, we passed legislation that said every child in the United States of America who had a special need required an individual education plan.

We gave that as a mandate to States and local school districts. We also said we would provide 40 percent of the money to help pay that bill.

In over the 20-plus years that IDEA has been in existence, we have only funded roughly 15 percent of the cost to local school districts to pay for these individual education plans for our children.

I hope that as we continue the debate on the Elementary and Secondary Education Act, and as we work on the bill, that one of our tools for really increasing the resources, without us becoming the new schoolmarms or a Federal school board, is to fund the mandate that we have given local school districts—to meet the individual educational needs of our special needs children.

Some of these services can cost as much as $75,000 a year. In my own State, the average cost to educate a special needs child is roughly 13,000 and the costs are rising steadily.

I will tell you, funding for IDEA is not about being a Democrat or a Republican. But I can tell you, everywhere in my own State—Democrats and Republicans, parents and teachers, doctors and school counselors, county executives, mayors, commissioners at the local level keep saying: Please increase the funding for the IDEA.

I believe that if we pass the Harkin/Hagel amendment, we could increase the percentage of Federal IDEA funds to school districts and by giving them greater flexibility—open up the opportunity to make sure we cross the digital divide, hire the right teachers, and reduce class size.

I do hope we have reform, plus resources, to get the results. And one of the ways to do that is to dramatically increase the funding for our special needs children. I do believe there is very strong bipartisan support to be able to do this.

I look forward to supporting that effort and trying to find a way to pass this bill in a way that we can be proud of and that the parents in America can count on, so that the children in America will believe that the Federal Government is on their side.

Mr. President, I yield the floor and any time I might have remaining.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent the time under the quorum call be evenly divided.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time to the Senator from Nebraska?

Mr. KENNEDY. Mr. President, I understand under the previous agreement there is time on the Harkin-Hagel amendment; am I correct?

The PRESIDING OFFICER. The Senator is correct. Senator HARKIN has 30 minutes.

Mr. KENNEDY. Is that the total time on the amendment, just 30 minutes? I ask unanimous consent that 15 minutes of that time be given to Senator HAGEL.

The PRESIDING OFFICER. That is the total time. Without objection, it is so ordered. The Senator is recognized for 15 minutes.

AMENDMENT NO. 360 TO AMENDMENT NO. 358

Mr. HAGEL. Mr. President, on behalf of Senator HARKIN, myself, and others, I send an amendment to the desk to the education bill to amend the Individuals with Disabilities Education Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL], for Mr. HARKIN, for himself, Mr. HAGEL, Mr. JEFFORDS, and Mr. KENNEDY, proposes an amendment numbered 360 to amendment No. 358.

Mr. HAGEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Individuals with Disabilities Education Act to fully fund 40 percent of the average per pupil expenditure for programs under part B of such Act)

At the end of title IX, add the following:

SEC. ____. HELPING CHILDREN SUCCEED BY FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

(a) FINDINGS.—Congress makes the following findings:

(1) All children deserve a quality education.

(2) In Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania (334 F. Supp. 1247)(E. Dist. Pa. 1971), and Mills vs. Board of Education of the District of Columbia (348 F. Supp. 866)(Dist. D.C. 1972), the courts found that children with disabilities are entitled to an equal opportunity to an education under the 14th amendment of the Constitution.

(3) In 1975, Congress passed what is now known as the Individuals with Disabilities Education Act (referred to in this section as ''IDEA'') (20 U.S.C. 1400 et seq.) to help States provide all children with disabilities a free, appropriate public education in the least restrictive environment. At full funding, Congress contributes 40 percent of the average per pupil expenditure for each child with a disability served.

(4) Before 1975, only ⅕ of the children with disabilities received a formal education. At that time, many States had laws that specifically excluded many children with disabilities, including children who were blind, deaf, or emotionally disturbed, from receiving such an education.

(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,400,000 children 6 to 21 years of age.

(6) IDEA enables children with disabilities to be educated in their communities, and thus, has assisted in dramatically reducing the number of children with disabilities who must live in State institutions away from their families.

(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.

(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.

(9) The overall effectiveness of IDEA depends upon well trained special education and general education teachers, related services personnel, and other school personnel. Congress recognizes concerns about the nationwide shortage of personnel serving students with disabilities and the need for improvement in the qualifications of such personnel.

(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.

(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.

(12) Changes made in 1997 also addressed the needs of those children whose behavior impedes learning by implementing behavioral assessments and intervention strategies to ensure that they receive appropriate supports in order to receive a quality education.

(13) IDEA requires a full partnership between parents of children with disabilities and education professionals in the design and implementation of the educational services provided to children with disabilities.

(14) While the Federal Government has more than doubled funding for part B of IDEA since 1995, the Federal Government has never provided more than 15 percent of the maximum State grant allocation for educating children with disabilities.

(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.

(b) LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—Clauses (i) and (ii) of section 613(a)(2)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)(C)) is amended to read as follows:

''(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 55 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for fiscal year 2001, except where a local educational agency shows that it is meeting the requirements of this part, the local educational agency may petition the State to waive, in whole or in part, the 55 percent cap under this clause.

''(ii) Notwithstanding clause (i), if the Secretary determines that a local educational agency is not meeting the requirements of this part, the Secretary may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, and may redirect the use of those funds to other educational programs within the local educational agency.''.

(c) FUNDING.—Section 611(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(j)) is amended to read as follows:

''(j) FUNDING.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated, and there are appropriated—

''(1) $8,823,685,000 for fiscal year 2002;

''(2) $11,323,685,000 for fiscal year 2003;

''(3) $13,823,685,000 for fiscal year 2004;

''(4) $16,323,685,000 for fiscal year 2005;

''(5) $18,823,685,000 for fiscal year 2006;
''(6) $21,067,600,000 for fiscal year 2007;
''(7) $21,742,019,000 for fiscal year 2008;
''(8) $22,423,068,000 for fiscal year 2009;
''(9) $23,095,622,000 for fiscal year 2010; and
''(10) $23,751,456,000 for fiscal year 2011.''.

Mr. HAGEL. Mr. President, the amendment we are offering today would fully fund the Federal commitment to the Individuals with Disabilities Education Act, IDEA. When Congress approved IDEA in 1975, which mandates that States provide an appropriate education to students with special needs, it pledged to provide 40 percent of the funding. Congress has repeatedly passed nonbinding resolutions supporting the full funding of this commitment. However, even with large increases in funding over the last 5 years, from $3.1 billion in 1997 to $6.3 billion in 2001, the Federal portions of the funds for IDEA has not exceeded 15 percent. This leaves State governments and local school districts to pick up the tab for this federally mandated program, taking away vital local education funds and options.

There is no question of the intent of this legislation. There was no question of the intent 25 years ago. Surely there is no question of the rightness of the intent of this program today. IDEA has proven to be a great success in ensuring all children, including those with special needs, receive a free and appropriate education across the United States.

Prior to its enactment, only 50 percent of students with disabilities were receiving an appropriate education. Today the majority of children with disabilities are receiving an education in their neighborhood schools in regular classrooms with their nondisabled peers. High school graduation rates for special needs students have increased dramatically, and students served by IDEA are employed at twice the rate of older adults who did not benefit from this program.

Congress did the right thing in passing IDEA 25 years ago. Today we are calling on Congress to again do the right thing, to fully fund the commitment Congress made to this program and to the people of this country.

It is typical in a way of some of the things we do here in Washington to mandate a program and then leave the State or the local governments to pay for it. Congress said when it passed IDEA that it would provide 40 percent of the funding, but 25 years later we are providing barely 15 percent. This amendment will fulfill that commitment we made 25 years ago and increase Federal funding for this very important and relevant program.

This amendment increases funding for IDEA in annual increments of $2.5 billion until the full 40 percent share of funding is reached in fiscal year 2007. With these annual increments the amendment provides an additional $120 billion for IDEA over 10 years. The amendment will also free up at least $28.9 billion and up to $52.5 billion in education funds for local school districts by 2007. School districts will be eligible for additional flexibility if the State certifies they are meeting the requirements of the law. Forcing them to pick up the slack for Federal funding of IDEA has caused them to take funds away from other important priorities that they, the school boards, the teachers, the principals, and the parents think are most important—not what Washington thinks is most important but what those closest to education in America think is most important.

This amendment will give local education authorities and taxpayers the ability to spend these funds as they see fit to fulfill their own education needs. They could hire more teachers, build new schools, and increase the technology in their schools. There are so many areas where they could use this funding to help our children everywhere achieve a better education. This amendment will give them the flexibility to do that.

This amendment fulfills a commitment Congress made but has never kept. It increases funding for education. It frees up money for local school districts. It gives the local school districts more flexibility and at the same time fulfills the commitment to our disabled children. It restores local control to local dollars. This amendment will help our teachers and our State and local school officials to provide the best education possible for our young people. That should be our goal.

In urging my colleagues to support our amendment, I point out it is because Senators KENNEDY, JEFFORDS, and HARKIN, and many others, both Republican and Democrat, over many years have led this effort to assure quality education for our disabled children. This amendment accomplishes what we set out to accomplish 25 years ago and more. And the ''more'' part of this amendment is to free up local school moneys to allow those local school districts to put that money where they believe their highest priorities are for education.

Mr. President, I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent the time not be charged against this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 360 TO AMENDMENT NO. 358, AS MODIFIED

Mr. HARKIN. Mr. President, there is an amendment at the desk in behalf of myself, Mr. HAGEL, Mr. JEFFORDS, Mr. KENNEDY, and others. I ask unanimous consent to send a modification to of the amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment, as modified, is as follows:

At the end of title IX, add the following:

SEC. ___. HELPING CHILDREN SUCCEED BY FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

(a) FINDINGS.—Congress makes the following findings:

(1) All children deserve a quality education.

(2) In Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania (334 F. Supp. 1247)(E. Dist. Pa. 1971), and Mills vs. Board of Education of the District of Columbia (348 F. Supp. 866)(Dist. D.C. 1972), the courts found that children with disabilities are entitled to an equal opportunity to an education under the 14th amendment of the Constitution.

(3) In 1975, Congress passed what is now known as the Individuals with Disabilities Education Act (referred to in this section as ''IDEA'') (20 U.S.C. 1400 et seq.) to help States provide all children with disabilities a free, appropriate public education in the least restrictive environment. At full funding, Congress contributes 40 percent of the average per pupil expenditure for each child with a disability served.

(4) Before 1975, only ⅕ of the children with disabilities received a formal education. At that time, many States had laws that specifically excluded many children with disabilities, including children who were blind, deaf, or emotionally disturbed, from receiving such an education.

(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,400,000 children 6 to 21 years of age.

(6) IDEA enables children with disabilities to be educated in their communities, and thus, has assisted in dramatically reducing the number of children with disabilities who must live in State institutions away from their families.

(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.

(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.

(9) The overall effectiveness of IDEA depends upon well trained special education and general education teachers, related services personnel, and other school personnel. Congress recognizes concerns about the nationwide shortage of personnel serving students with disabilities and the need for improvement in the qualifications of such personnel.

(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.

(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.

(12) Changes made in 1997 also addressed the needs of those children whose behavior impedes learning by implementing behavioral assessments and intervention strategies to ensure that they receive appropriate supports in order to receive a quality education.

(13) IDEA requires a full partnership between parents of children with disabilities and education professionals in the design and implementation of the educational services provided to children with disabilities.

(14) While the Federal Government has more than doubled funding for part B of IDEA since 1995, the Federal Government has never provided more than 15 percent of the

maximum State grant allocation for educating children with disabilities.

(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.

(b) LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—Clauses (i) and (ii) of section 613(a)(2)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)(C)) is amended to read as follows:

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''(ii) Notwithstanding clause (i), if the Secretary determines that a local educational agency is not meeting the requirements of this part, the Secretary may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, and may redirect the use of those funds to other educational programs within the local educational agency.''.

(c) FUNDING.—Section 611(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(j)) is amended to read as follows:

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''(4) $16,323,685,000 for fiscal year 2005;

''(5) $18,823,685,000 for fiscal year 2006;

''(6) not more than $21,067,600,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2007;

''(7) not more than $21,742,019,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2008;

''(8) not more than $22,423,068,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2009;

''(9) not more than $23,095,622,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2010; and

''(10) not more than $23,751,456,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2011.''.

Mr. HARKIN. Mr. President, first, I wish to thank my colleagues, particularly Senator HAGEL, for working so hard to come to an agreement on this important bipartisan amendment. We have had some good give and take on a lot of issues, especially on this one. I believe we have produced a proposal that is good for our future, good for our kids, and good for our taxpayers.

This amendment is really quite simple and straightforward. It says that the Federal Government is finally going to meet its full commitment which we set in 1975. In fact, I remember it well. Senator JEFFORDS, the chair of the health committee in the Senate, and I were freshmen in the House that year. Both of us were interested in education, especially in issues that dealt with people with disabilities.

In 1975, when IDEA was passed in the House and Senate, there was an agreement made by the negotiators on the understanding that this would cost our local school districts more resources in the future. The negotiators agreed that the Federal Government's goal would be to provide at least 40 percent of the average per-pupil expenditure in each local education area. There was no timeframe put on it.

So, for 25 years after 1975, we continued to put more and more money into IDEA but never getting close to fully funding it, which would have been 40 percent of the average per-pupil expenditure.

The amendment that we have at the desk says we are going to put our money where our mouth is. We are finally going to be full partners with State and local governments.

This amendment fully funds the Individuals with Disabilities Education Act. It appropriates funds for the next 10 years, gradually rising so that within 6 years we are at the level projected to equal 40 percent of the average per pupil cost.

That is what was promised. That is what this amendment will deliver, plain and simple.

Let me clarify what the amendment does not do. This amendment does not create a new entitlement program. It provides advanced appropriations for the next 10 years. That amount would be set in law. It does not create an uncontrolled tap on the Treasury, so that whatever the 40 percent costs are we would match. If we did that, the incentive would be to shift costs from other education programs into IDEA, and the costs would then likely skyrocket. We don't want that. Our amendment does not allow for that.

As Senator HAGEL and so many of us have said so many times, this is not a partisan issue. Both sides have worked diligently over the years to ensure that children with disabilities and their families get a fair shake in life, and especially get a fair shake in our educational system.

This really is a win-win-win amendment. With this advanced appropriation, students with disabilities will get the public education they have a constitutional right to receive.

Second, school districts will be able to provide these services without cutting into their general education budgets. And in cases where all of the IDEA-eligible kids are getting the services they are entitled to, property taxpayers will get relief.

Here are some of the specifics of our amendment. First, our amendment would set in law appropriations levels for IDEA, an increase in roughly $2.35 billion increments annually over the next 6 years. Currently, the State grant program within IDEA receives $6.34 billion a year. This is about 15 percent of what we should be doing under IDEA. In other words, we want to be at 40 percent. This is only about 15 percent of that full funding.

Under our amendment, by 2007 we will meet the goal of 40 percent by appropriating just a little over $20 billion—$20 billion with a ''b''.

Second, our amendment strikes an appropriate balance between the needs of our students with disabilities and the needs of our State and local governments. Students will get a free and appropriate public education, and local schools will be able to deliver these services without breaking the bank of the local tax base which they have. Under our amendment, States could use 55 percent of the increased funds. That could be used for local purposes or for whatever purpose they want.

Furthermore, if a local school district can show that they are indeed meeting 100 percent of the needs of their students with disabilities, they can use 100 percent of the increase we are giving them for other purposes.

We did not want an anomaly where if a school district was, in fact, meeting all of the needs and services for students with disabilities, we would then give them all of their money and they would use this money for student disabilities when they don't have any. If they are meeting 100 percent of their needs, why should they get more money to use for that specific purpose?

Our amendment says if that is the case, and they can show that, then all of the increases that would accrue under their local State agency to a local school district they could use for other purposes. Also, our amendment provides a new measure to ensure that kids are being served appropriately.

Another section of the amendment says that the Secretary can look at a school district and, if there is clear evidence that they are not meeting 100 percent of the needs of their students with disabilities, these increases then have to go to meet that 100 percent of need.

This provides a good balance. It allows those local school districts that are doing a great job—there are a lot of them who are meeting all of the needs of kids with disabilities—they can use this money for other purposes. It provides the Secretary with the ability to go in and say, No, you are not. In certain areas where they are not meeting their constitutional requirements—and there are a lot of cases that do—they have to use these increases for that purpose.

There has been a lot of talk about Federal mandates. Every year since I have been in the Senate—that is going on 17 years now—I have come to the floor to talk about IDEA and to talk about the fact that while we should fulfill our 40 percent requirement or sort of a guarantee of 40 percent that we put out there 26 years ago, the provision of services to kids with disabilities is not a Federal mandate. It is a constitutional mandate.

Two landmark Federal district court cases—PARC v. Commonwealth of

Pennsylvania, and another case, Mills v. Board of Education of the District of Columbia—established that children with disabilities have a constitutional right to a free, appropriate public education.

Again, there is nowhere in the Constitution of the United States says that a State—any State—has to provide a free public education to any of its kids.

Nowhere in the Constitution is that mandated. What the Constitution does say, however, under its equal protection laws, is that if a State does provide a free public education, it cannot discriminate and say, OK, we will just educate white males. It cannot say, we will just educate whites but not blacks. It cannot say, we will educate people of one religion over another. If they are going to provide a free public education, States cannot discriminate on the basis of race, sex, creed, or national origin. And with the two cases in the early 1970s that I mentioned, States cannot discriminate on the basis of disability. So a child with a disability in America—in Illinois, Iowa, or Nebraska—has a constitutional right to a free and appropriate public education.

In response to those two cases, in 1975 Congress enacted the Education of Handicapped Children Act, which later became IDEA. It was to help the States meet their constitutional obligations. So even if we did not have this, States would still have to provide the funds. But since I believe, and I think many of my colleagues believe, that the education of children with disabilities is a national problem, that we at the Federal level ought to at least live up to what we said 26 years ago and provide at least 40 percent of the average per-pupil expenditure for children with disabilities.

Again, that is what this amendment does. It does it over the next 6 years, so that by the year 2007, fully 32 years later, Congress will finally live up to its promise to our States and local education agencies.

Congress enacted Public Law 94–142 for two reasons, first, to establish a consistent policy on what it means to provide a free and appropriate public education to kids with disabilities; and, second, to provide Federal funding to help States meet their constitutional obligations.

Finally, the Supreme Court's decision regarding Garret Frey of Cedar Rapids, IA, underscores the need for Congress to help school districts with the financial costs of educating children with disabilities. While the excess costs of educating some children with disabilities is minimal, the excess costs of educating other children with disabilities, such as Garret, can be very great. We need to help school districts meet these challenges.

Earlier this year, I heard from the Cedar Rapids and Iowa City Chambers of Commerce that more IDEA dollars will help them continue to deliver high-quality educational services to every child in their school districts. I have heard from parents in Iowa that their kids need more qualified interpreters for deaf and hard-of-hearing children. Our school districts and our families need better mental health services and better behavioral assessments of children.

Our amendment would let these folks do it all because, over the next 10 years, my State of Iowa, I figured out, under this amendment, would receive over $1 billion in new money.

Again, there are so many families out there where both parents are working. They may be low income families. They may have a child with a disability, and all they want for that child—a child they love, as we all love our children—is to make sure that child is not discriminated against, that child gets the support services he or she needs to be as successful in life as their capabilities will allow.

I have heard so many times about how kids in classes, who may have a disability—sometimes we hear this old saw about how they act up and become disruptive. Consider if you were like my brother, who was deaf, and you were in a classroom with a TV monitor but did not have closed-captions, and you were not provided an interpreter. After a while would you get pretty frustrated.

Sometimes, because you cannot speak well, and you cannot hear, maybe you would act out a little bit of your frustrations. What happens then? Maybe they would expel you—all for the lack of the needed services to provide that free and appropriate public education.

I must say, my heart goes out to many school teachers in this country, especially in elementary schools. A lot of them have large classes. I have seen as many as 28 to 30 in a class. Teachers are trying to do the best they can to provide instruction to these kids. They may have a couple kids with disabilities. These teachers are not trained to handle kids with disabilities. They have never been trained to do that. They are not experts in behavioral assessments. They might not have had any kind of mental health training. They probably have had no training at all for any one particular disability or another.

So I feel sorry for these teachers because they want to teach these kids. They may have a big class to teach, and yet they are not getting the supportive services they need to ensure that kids with disabilities get a good education.

That is what we hope this amendment will do, to begin to provide the funding, so that school districts can provide the supportive services, so that our teachers are not frustrated, and so that children will not act out their frustrations because they are disabled and are not getting the support and the kind of services they need. That is what this amendment is all about.

Over the past 6 years, as ranking member on the appropriation subcommittee, I have worked with my chairman, Senator SPECTER, and many others in the Senate, to improve IDEA funding through the normal appropriations process. I think we have done quite well. On a bipartisan basis, we have been able to almost triple IDEA appropriations in the last 6 years. I thank Senator SPECTER for his leadership in this area. So we are now up to 15 percent of the funding formula. But that is still not adequate.

That is why this amendment is so necessary. Yes, we can go by, year after year, trying to get some money out of the discretionary pot. But then that is always a battle. It is always a battle. With this amendment, we will not have to fight that battle every year.

Let me make very clear what this amendment does. This amendment appropriates the money that is necessary to get us to that 40 percent level. This is not an authorization amendment, my friends. This amendment appropriates the money. And it does it over a 6-year period of time.

I will read the words. The amendment says: Funding. For the purposes of carrying out this part, there are authorized to be appropriated, and there are appropriated—so this amendment isn't just a lot of rhetoric. This amendment isn't just a lot of flowery speeches about how we are going to help our States. This does it. This puts our money where maybe our rhetoric has been in the past. It puts in the money.

It lists right in the amendment the amount of moneys that will be appropriated next year, and every year thereafter, until the year 2011. It sets forth those sums. By the year 2007, we will be at approximately $21 billion per year or at 40 percent of the average per pupil expenditure. That is why this amendment is so critical.

Now we can say to our States and our local school districts that it isn't just the promise that next year we will try to do better, next year we will try to do a little bit more, and yet every year they see that promise is unfulfilled. This amendment actually means the money is going to be there. For kids with disabilities, IDEA is a downpayment on the American dream. If we want adults with disabilities to succeed in the workplace, we have to first help them succeed in school. Now we have this amendment that will do that.

I ask unanimous consent that Senators STABENOW, DODD, REED of Rhode Island, WELLSTONE, and LEVIN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Once again, I thank Senator HAGEL for working so closely on this amendment to make sure we had one that really did what we wanted it to do and did it in a cost-conscious and fiscally responsible manner, to make sure we address what is the need out there, the need of kids with disabilities who are not getting served, and to help our local school districts that are

meeting that need to be able to use this money to help out their hard-pressed property tax payers.

I thank Senator HAGEL for his strong work on this amendment; Senator JEFFORDS, for his many years of support both on the authorizing side and on the appropriations side for kids with disabilities; Senator KENNEDY, for his stalwart leadership in all aspects of trying to make life more fair for people with disabilities; Senator DODD, who, again, has worked hard on these issues through all the years; and my other colleagues on both sides of the aisle.

The PRESIDING OFFICER. The time under the control of the Senator has expired.

Mr. HARKIN. I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Through all the years, while we may have had disagreements on one little aspect of this, I have found generally on both sides of the aisle a lot of goodwill to try to reach some consensus on how we fulfill the constitutional mandate of providing our kids with disabilities a free and appropriate public education.

We have, indeed, come a long way since I first came here in 1975, with the passage of IDEA, then, later on, the Americans with Disabilities Act, early intervention programs and now, finally, the fulfillment of the promise we made 26 years ago that the Federal Government would provide the lion's share of funding to our States and local school districts so our constitutional mandate could be fulfilled.

I yield the floor.

Mr. KENNEDY. I will take a few moments to talk about the substance of the Harkin-Hagel amendment and the reasons I support it.

Mr. President, I strongly support this amendment of Senator HARKIN and Senator HAGEL. I congratulate both of them for bringing focus and attention to this great opportunity and responsibility to the Senate. They both deserve great credit. I am on the floor now with my friend and colleague, the Senator from Vermont, who has been a strong supporter over his lifetime in terms of funding for the special needs as well. I know he will have a chance to speak to it. I think all of us are very grateful for their leadership, and it is appropriate, as we are coming into the Nation's choices about its budget and taxes, that we get an idea of some of the alternatives.

This amendment to fully fund IDEA finally puts real dollars behind the goal of full funding by providing $181 billion over the next 10 years in increased funding for special education. Congress owes the children and families across the country the most effective possible implementation of this legislation and the Federal funding necessary to make it happen.

For 25 years, IDEA has sent a clear message to young people with disabilities that they can learn and that their learning will enable them to be independent and productive citizens and live fulfilling lives. Prior to 1975, 4 million disabled children didn't receive the help they needed to be successful in school. Few disabled preschoolers received the services; 1 million disabled were excluded from public schools. Now, IDEA serves almost 6 million disabled children from birth through the age of 21, and every State in the Nation offers public education and early intervention services to disabled children.

That is a remarkable statement in terms of the American people, to transition from this point where so many of these children were basically ignored, shunned, placed in the shadows of the communities, and it has been extraordinary courage those children have shown, their parents have shown, schoolteachers have shown, community leaders have shown, and to awaken this Nation to its responsibilities to provide education and opportunity for these children to live independent, constructive, and positive lives is just virtually unlimited.

I don't think any day goes by when we don't hear another remarkable story. I saw Leonard Slatkin just yesterday. I was commenting about the wonderful success the National Symphony had with its brilliant symphonies; many positive comments have been made about it. One of the comments made was regarding the percussionist, who is tone deaf, for the National Symphony. Maestro Slatkin had indicated that this woman is probably the best percussionist in the world; she has a general worldwide reputation. She plays the instruments with bare feet. She can hear the vibrations that are coming through the floor of the concert hall as she plays her music. She is able to produce just superlative performances.

Every day we are all reminded of these extraordinary acts of courage. So little of that would have been possible if we had not moved ahead to develop an IDEA program a number of years ago. IDEA now serves almost 6 million disabled from birth to age 21. Every State in the Nation offers public education and early intervention services to disabled children.

Mr. REID. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. Yes, I am glad to.

Mr. REID. I have been impressed with the Senator's statement about in 1975 it became a Federal edict, in effect, saying we are going to educate the handicapped—mentally, physically, and emotionally. It is my understanding, though, the reason this amendment is offered on a bipartisan basis by the Senator from Iowa and the Senator from Nebraska is that the Federal Government hasn't been living up to its financial responsibility to take care of these disadvantaged children; is that true?

Mr. KENNEDY. The Senator is absolutely correct.

Mr. REID. So this amendment is to allow school districts to use the money they have on programs that are not mandated by the Federal Government. They can use the money that we hope will come from this amendment to take care of the disadvantaged children; is that true?

Mr. KENNEDY. That is entirely correct.

Mr. REID. Is it true that one reason school districts all over America are just scavenging for money, desperate for money, is the necessity that we all accept of educating these children? Is that true?

Mr. KENNEDY. That is true.

Mr. REID. Well, I look forward to supporting the amendment. Again, in this 50/50 split Senate, I look forward to voting for this bipartisan amendment on this important issue.

Mr. KENNEDY. I thank the Senator.

Just to come back to looking at the history, when the original special education law was passed, the Congress intended to work toward the goal of fully funding the 40 percent of the cost of educating special needs children—a child. After 25 years, the Federal Government pays only 13 percent of the excess costs. This bill will obligate funds to reach the 40 percent, full funding, in the fiscal year 2007. So that is what this bill does. It meets the responsibility we have given to the communities. I am sure in your own State, as in mine, you can go to a very small community where they have maybe a severely challenged child and the child goes to the local school. These extraordinary benefits are for the child.

But these are extraordinary burdens to the community. The community wants to help the child, and suddenly they are caught up in something they never anticipated or thought possible, and they are sort of left out there without assistance. If we recognize that we as a nation have additional responsibilities in these areas of the very special needs—we do this in different ways under the Medicare and Medicaid systems; I recognize that—I think that helps define our humanity. But if we are going to define our humanity, we ought to at least be able to define it in a more complete way, and that is by providing the resources for this problem.

I will just mention a couple of additional facts. I see my friend and colleague from Vermont, who I know wants to say a word. Listen to what has happened in the schools. The dropout rate for these students has decreased, while graduates have exploded. The number of young adults with disabilities enrolling in college has tripled. These results do not come without financial costs. It is time for the Congress to help schools provide the services that give children with special needs the educational opportunities to pursue their dreams.

For too many years there were empty promises. The amendment of Senators HARKIN and HAGEL will help the schools and communities to meet the responsibilities. This amendment

would make IDEA mandatory, and by passing it we will free up discretionary funds that could be allocated to other critical education priorities. We can truly ensure that no child is left behind; that every needy child has a fair chance at a quality education; that more teachers are better trained; that more afterschool opportunities are available; and more schools are modern and safe.

This is another chapter, I believe, in no child being left behind. We want to make sure that no child with special needs is left behind. We need the funding for the title I. We want to make sure that the children with special needs are not going to be left behind. This is a continuum. We should free ourselves from: Well, look, we have increased this fund, that fund by X percent, by Y percent.

What we are talking about is not leaving the children behind and at a time of record surpluses, these are questions and choices. There will always be reasons why we cannot. The question is, Do we have the will and determination? Now is the time.

I see my friend and colleague, the Senator from Vermont. I yield the floor.

Mr. JEFFORDS. Mr. President, I thank the Senator for yielding. I commend him for his statement.

As we all know, there is nothing more crucial in this bill than to make sure we have the resources available to help the schools and communities meet the demands that will be placed upon them by the required standards. At present, those resources are not there.

I correct the Senator's statement on one matter. We do not fund 40 percent of the cost of the disabled child. We fund it at 40 percent of the cost of the average child. That means we are really far from fully funding the cost of a child with disabilities. Keep that in mind.

What we are asking for is 40 percent of the average child, but that is billions of dollars in shortfall. If one examines this bill and examines the problems in this Nation, what I am concerned about—from the perspective of the President—is if we do not have the resources that are necessary to bring about the changes in our schools to have these young people meet the standards which are going to be required of them, then this bill is not going to reach its fulfillment.

I urge all Members to recognize that if they want to help the President's goals that are set forth in this bill, they are going to need the resources. Fully funding IDEA will be a big step forward. Forty percent of the cost of an average child is far less than the cost of a disabled child. This is what is draining the money out of our school systems. This is what is putting pressure on property taxes in this Nation, to the point that, as in my State and all across this country, more and more votes are going against additional resources for the schools because we do not fund that 40 percent that we promised.

If we do fund it, then many of the young people who presently will not be helped educationally or because of disabilities will be helped. The President's goal will not be reached if we do not provide the necessary funds.

I strongly support the Harkin-Hagel amendment. I want to make sure everybody understands that if we do not do this, this bill is going to have a very difficult time reaching the goals which the President desires.

Mrs. MURRAY. Mr. President, I rise to thank Senator HARKIN for his work on this amendment.

I've supported this proposal in a free-standing bill, and today I'm proud to be an original cosponsor of this bipartisan amendment. And as an appropriator, I have special concerns I want to share.

We agree as a country that we need to work together, in partnership at the Federal, State, and local levels, to make sure that students with special needs get the support to succeed.

Under the Individuals with Disabilities Education Act, IDEA, the Federal Government is supposed to provide 40 percent of the average per student costs. But we all know that the Federal Government has not paid its share.

This amendment will make sure the Federal Government meets its obligation to support special education. This amendment will bring us to full funding in 6 years.

This amendment also has another important advantage. By moving IDEA funding from the discretionary side to the mandatory side, we will free up about $7.1 billion for education. That money can be used to pay for the costs the underlying bill imposes on States.

As I have mentioned before, the underlying bill creates a number of expensive, and unfunded, mandates on States in areas like testing and accountability.

We can not just demand that students pass tests. We have got to give them the tools to pass those tests. But funding all the requirements in this bill will be difficult because of the limits imposed by the President's tax cut.

As a member of the Appropriations Committee, I'm trying to prevent a train wreck. I want to make sure the $7.1 billion freed up by this amendment will go to fund the mandates in this bill. If that does not happen, we will have to fund this bill's requirements at the expense of other priorities such as child care, higher education, and social services.

So we need to pass this amendment because it is the right thing to do for students who have special needs, and we also need to use the money this amendment frees up to bolster our investment in education. That extra money should stay in the classroom.

I have received many letters and e-mail messages about the importance of fully funding IDEA.

I should like to share with my colleagues a letter I received in March from the Yakima School District in Washington State. It is from Superintendent Benjamin Soria and Barbara Greenberg, who is president of district's board of directors.

They write that the Yakima School District serves about 1,800 students with disabilities, about 13 percent of the district's total school population.

Unfortunately, the State of Washington only provides 12.7 percent of funding for special education. And, as we know, the Federal Government is not paying its promised share.

As a result, they write:

> The Yakima School District must supplement state and federal funds for special education with local district dollars, this year amounting to $850,000.
>
> If the district were to receive full funding as promised by Congress, it would amount to more than $3 million to be used to meet the provisions of IDEA as intended 26 years ago.
>
> It is time for Congress to make good on a long overdue promise.

I received another letter from John Cady from Seattle. John is the parent of a child with a disability.

He writes:

> I believe that by investing in the education of our nation's children, we are enabling individual growth an productivity that will ultimately lead to financial independence and an adult life of dignity and self-fulfillment. The dollars spent on our children in Washington now are well worth the rewards both they and America will receive in the long run.

Schools throughout the country are working to help students with special needs reach their full potential. This amendment will help them and will provide additional funding that we should use to support classrooms.

Let's show the educators in Yakima and across the country, and parents like John Cady, that we will fully fund our share of special education.

Mr. DODD. Mr. President, I rise in support of the Harkin-Hagel amendment to fully fund the Individuals with Disabilities Act.

I have been a strong supporter of full funding for IDEA for many years and hope that this amendment finally will realize that goal.

This Congress, I joined Senators HARKIN and HAGEL and many others as an original co-sponsor of S. 466, to fully fund IDEA.

Last Congress, Senator JEFFORDS and I twice offered budget amendments to fully fund IDEA, and I have offered many measures over the years to increase funding for IDEA.

The Harkin-Hagel amendment offers Congress the opportunity to fulfill our goal of funding 40 percent of the cost of educating children with disabilities and to strengthen our support for children, parents, and local schools.

When Congress passed IDEA in 1975, we set a goal of helping States meet their constitutional obligation to provide children with disabilities a free, appropriate education by paying for 40 percent of those costs.

We have made great strides toward that goal in the last few years, having

doubled Federal funding over the past five years. Nevertheless, we still only provide 15 percent of IDEA costs.

In my own state of Connecticut, in spite of spending hundreds of millions of dollars to fund special education programs, we are facing a funding shortfall. In our towns, the situation is even more difficult. Too often, our local school districts are struggling to meet the needs of their students with disabilities.

The costs being borne by local communities and school districts are rising dramatically. From 1992 through 1997, for example, special education costs in Connecticut rose half again as much as did regular education costs. Our schools need our help.

Of course, no one in Connecticut, or in any state or community in our country would question the value of ensuring every child the equal access to education that he or she is guaranteed by our Constitution. The only question is how best to do that—and a large part of the answer is in this legislation. This amendment would demonstrate that our commitment to universal access is matched by our commitment to doing everything we can to helping states and schools provide that access.

And, this amendment will help not only our children and schools, it will help entire communities, by easing their tax burden. By our failure to meet our goal of fully funding IDEA, we force local taxpayers—homeowners and small businesspeople—to pay the higher taxes that these services require. That's especially a problem in Connecticut, where so much of education is paid for through local property taxes.

If we're going to talk about the importance of tax relief for average Americans, there are few more important steps we can take than adopting this amendment. It will go far to alleviate the tax burden that these people and businesses bear today.

Last year, the National Governors' Association wrote me that ''Governors believe the single most effective step Congress could take to help address education needs and priorities, in the context of new budget constraints, would be to meet its commitment to fully fund the federal portion of IDEA.''

Over the next ten years, we're looking at a $2.7 trillion non-Social Security, non-Medicare surplus. I think that fully funding IDEA is one of the most productive ways that we can use a small part of that surplus.

I ask that my colleagues seize this opportunity and support this amendment and choose to help our schools better serve children with disabilities. Because, I am tired of the false dichotomy that many people perceive between parents of children without disabilities and parents of children with disabilities.

By fully funding the Federal share of IDEA, and easing the financial burden on states and schools, we can stop talking about ''children with disabilities'' and ''children without disabilities,'' and start talking instead about all children, period.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I ask unanimous consent to speak for 5 minutes in favor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I am very grateful to Senators HARKIN and HAGEL for proposing this amendment. It is very important. It is a promise long overdue.

If we look at what has happened since we created this program, which essentially is a mandate to the schools to ensure that they take care of the disabled children in their school districts, we have fallen far short of our commitment to those children and to those schools. Every one of us knows this, regardless of whether we are from Illinois or California, east coast, west coast, North, South.

The fact is, if you look at the chart behind me, what you see is that in 1996, for example, we voted $2.3 billion to help fund this program for our disabled children when in fact our commitment really was for $12.7 billion. It goes right through: In 2001, $6.3 billion. Remember, we added quite a lot, but it still is far short of the $17 billion we promised.

This amendment is about fulfilling a commitment and a promise to our disabled children and also to the school districts all across this country that are doing so well at taking care of the children. As a matter of fact, if you look at the results of this IDEA program, these children are doing so much better. Fewer of them are dropping out. They are living up to their potential. This is an important and a good program.

I will show this other chart that illustrates in another way the unfulfilled promise that has occurred. This is mandatory spending for our school districts. Yet that whole inner part of our graph shows how we have had an unfulfilled promise. But we will gradually begin to fulfill this promise with this IDEA authorization that this amendment would bring us, until we get to the point in several years where the need and the Federal money, 40 percent of the program, actually meet and we are meeting our commitment.

For too many years we made too many empty promises. I know Senator KENNEDY believes strongly in this regard. I was pleased he asked if I would say a few words. By committing to this level of funding, we are not only keeping a promise, which is the moral and right thing to do, but we are helping the children who most need our help.

Again, I hope we have a very good vote in favor of the amendment. It is extremely important that we keep our promise to these children.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I understand all time has expired on our amendment.

The PRESIDING OFFICER. Two amendments are being considered concurrently.

Mr. HARKIN. Mr. President, I ask unanimous consent that all time be yielded back on the Harkin-Hagel amendment that is now at the desk, and I ask consent that the question be put to the Senate regarding that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, may we add to that request that the time until 4 o'clock be evenly divided between the majority and minority to speak on this?

The PRESIDING OFFICER. Does the Senator from Iowa modify his request accordingly?

Mr. HARKIN. Yes, I will modify the request accordingly.

The PRESIDING OFFICER. Is there objection to the modified request?

Without objection, it is so ordered.

The question is on agreeing to amendment No. 360, as modified, offered by the Senators from Nebraska and Iowa.

The amendment (No. 360), as modified, was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I compliment the Senators from Iowa and Nebraska. We need to do more legislating on a bipartisan basis. This is a very important amendment that was accepted in this manner, with the unanimous consent of the Senate. That says it all. This should set a good tone for the rest of this bill. The reason I asked that the time be set aside, there are some Members who still want to come and speak on this subject. It is very important. Senator WELLSTONE wanted to speak, as do others. I wanted to make sure they could do that.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I was meeting with some people from the small business community. I was an original cosponsor of this very important IDEA amendment.

I congratulate Senators HARKIN and HAGEL. I understand we actually had a voice vote on this amendment. I also congratulate Senator JEFFORDS, Senator KENNEDY, and others who were involved in drafting and passing this critical piece of legislation.

I point out to colleagues that by making IDEA part of mandatory spending and not leaving it up to the appropriations process year to year, we have done something very significant. In the State of Minnesota, if we have automatic funding for IDEA—and I think we get to fully funding it over a 7-year period—then we are going to have about $169 million for education in Minnesota.

This is extremely important. I am proud to be an original cosponsor. The voice vote is a good thing but it makes me nervous; a voice vote is an indication of strong support, which is what I take it to be in this case. But I also must assert how extremely important it is that this, of course, stay in the bill through the conference committee. The word from the Senate today on this question is one of clear, unanimous support.

Speaking for my colleague, Senator DAYTON, he is going to have an amendment next week—and I will join him—that will accelerate the timetable for funding IDEA. He feels strongly about it. He campaigned on this issue and believes it is a longstanding commitment we have not met. I could not agree with him more.

But for today, this is an extraordinary first step the Senate has taken. I congratulate everyone involved.

In particular, I congratulate Senators HARKIN and HAGEL. I know this is near and dear to Senator HARKIN's heart because he has been, maybe more than anyone in the Senate, the strongest advocate for children with special needs. There is some poetry and justice to the fact that Senator HARKIN has led the way on this issue of funding.

I am proud of what the Senate has done today. I hope with this and on a whole lot of other amendments we will continue to dramatically change and improve this bill to the point where we are really doing well for education and children. I will take it 1 day at a time or 1 hour at a time. This was important action. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

(The remarks of Mr. SPECTER are located in today's RECORD under ''Morning Business''.)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I express the appreciation of all of us to Senator HAGEL and Senator HARKIN and their staffs and all those who have been part of the effort to bring about this extraordinary and incredibly important resolution that will result in hundreds of thousands of children having better opportunities for their future. This action that was taken here today sends an enormous message of help to many children who are growing up, not only with the challenges and needs that normal children have, but who have the additional burdens of some physical or mental disability or challenge.

It will make an enormous difference to their lives. It will make an incredible difference to their parents' lives. It will make an extraordinary difference to those who care for these children. I think it is really the Senate at its best. So I thank those two leaders. It seems to me you probably do not have to do much more than that, to have had a very great mark on the lives of many people in this country.

I salute them both. This adds a very important, special, and extra dimension to this legislation. It will take time for the American people to understand it, but it will make an important difference.

Mr. REID. Will the Senator yield for a question? Does the Senator from Massachusetts agree that it also sets a very good tone for this very important piece of legislation that one of the most important amendments this bill could have was offered on a bipartisan basis and approved on a bipartisan basis? Doesn't it set a good tone for the rest of the bill?

Mr. KENNEDY. It certainly does. I appreciate the Senator mentioning that. The underlying blueprint reflects the best judgment of Members on both sides of the aisle. It is a blueprint which I strongly support.

The real gap, as the Senator heard, is placing enormous demands on schools, on teachers, and on children. We need to have the resources for the children. That requires funding, and we still are not there on that particular issue.

But certainly with regard to the special needs children, this has been an extraordinarily bipartisan effort. That is of incredible importance to this country. I congratulate our colleagues on both sides of the aisle. This is a very sound, bipartisan effort. We are enormously grateful for their initiatives and for the result.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to join Senator KENNEDY in congratulating Senators HAGEL and HARKIN on their amendment with respect to IDEA. This amendment will guarantee America's 16,000 school districts a long overdue increase in special education funding.

The amendment proposes to fully fund part B of the IDEA over the next 6 years.

One of my first legislative tasks, when I was a freshman Congressman in 1975, was to work on the first federal legislation to guarantee a free and appropriate public education for children with disabilities.

Public Law 94–142, later renamed the Individuals with Disabilities Education Act, was passed in response to numerous court decisions involving lawsuits against a majority of the states, and growing concerns about the unconstitutional treatment of children with disabilities.

In passing this legislation, it was Congress' intent to define a state's obligation to students with disabilities residing in the State.

In crafting Public Law 94–142, Congress looked at the national average per pupil expenditure and estimated that it would cost approximately twice as much to educate children with disabilities as it would to educate other children.

At that time, 26 years ago, Congress pledged to assist states and localities in meeting the needs of students with disabilities by providing federal funding to cover 40 percent of the average student cost.

Although numerous studies conducted since 1975 have verified that it costs at least twice as much to educate children with disabilities, Congress has never provided more than 14.9 percent of the average per pupil expenditure.

If we were funding 40 percent of the costs educating students as promised in 1975, we would have appropriated $17 billion for Part B of IDEA for fiscal year 2001. The $6.3 billion that we did appropriate for fiscal year 2001 falls far short of that commitment.

While I commend Congress for increasing the appropriation for Part B of IDEA over the years since 1996, it frustrates me to no end that we still fall so far short of meeting our 26 year old commitment to fund out 40% of the costs.

However, this amendment will have a far greater impact than simply helping students with disabilities. With the Federal Government's failure to live up to its obligation under IDEA, State and local governments have been forced to incur almost all of the additional costs associated with educating children with disabilities and putting undue stress on such things as property taxes.

Money that might have been directed to additional training for teachers, to hiring new teachers, to increasing salaries to retain high quality teachers, or to repairing schools, has instead gone to meeting part of the Federal Government's obligation under IDEA.

This amendment provides increased flexibility to states and localities by modifying the provisions that were included in the 1997 reauthorization of

IDEA which permit a local education agency to treat up to 20 percent of the increase in the appropriation over the preceding fiscal year's appropriation as local funds.

Currently, a State or locality must maintain their share of the annual special education spending levels regardless of the amount of the Federal contribution.

Our amendment would give local education agencies the flexibility to use local funds in an amount up to 55 percent of the increased funding over the fiscal year 2001 appropriation for other local needs. In passing this amendment, we will be increasing our Federal commitment to meeting the needs of students with disabilities, and we will be giving local communities the flexibility to use local tax dollars that are currently meeting the Federal Government obligation for special education, for other local purposes and to reduce the stress on property taxes.

While I think the reforms proposed in the BEST Act are critical to overall reform in our education system, I feel it is unfair for us to demand more of state and local educators when we have failed so badly in meeting our obligation to assist in funding special education.

Without question, we need to dramatically improve the education we provide to all of our children. Some of this will come through the increased accountability and flexibility we provide in the BEST Act.

Forty percent of our 4th grade students are not proficient in reading. Our 12th grade students come in near the bottom of international exams in mathematics and science.

The crisis we face in math and science was recently underscored by the work of the Glenn Commission. Many of its recommendations, which were also supported by President Bush, have been incorporated in the BEST Act.

But training and retaining high quality math and science teachers requires money, especially when schools are competing in a tight market for their skills.

Turning our schools around will not be easy, and it cannot be done on the cheap. This amendment to fully fund IDEA should help us achieve the reform we all seek. We owe our children nothing less.

Increasing special education funding is a top priority for many disability groups, for teachers, for school boards throughout the country, for local education agencies, for governors, and for children with disabilities and their families.

I have a petition from every school board in my State. Vermont schools have made it clear to me again and again that their number one priority is to fully fund IDEA. These petitions serve as a sobering reminder of my responsibility to the children, and families, and the schools in my State.

I have no doubt that each and every one of us has heard similar messages from your state education agencies, local education agencies, and school boards, and from the families of children with disabilities.

This amendment is a win-win for everyone. Children with disabilities will get the services they need.

There will be more money in local school districts to hire personnel and to train or retrain personnel to work with children with disabilities.

Schools will be able to provide more support to general education teachers who have children with disabilities in their classrooms.

More money will be freed up for other purposes such as general education reform initiatives chosen by local communities.

School boards will no longer feel as though they are pitting the needs of one group of students against another.

Finally, with predictable, substantial increases in IDEA funds and expanded flexibility, school districts will be better able to undertake thoughtful planning.

Over the last few months, I have heard references to the need to fully fund special education almost every day that Congress has been in session.

Our country is currently enjoying thoughts of a projected 5.7-trillion-dollar budget surplus over the next ten years. We are discussing over a trillion dollar tax cut. The presence of this large surplus and the possibility of providing substantial tax cuts provides Congress with the unprecedented opportunity to fulfill the commitment that Congress made 26 years ago in passing P.L. 94–142. If not now, when?

The time for rhetoric is passed. The time to act is now. I'm glad the Senate has agreed to fully fund IDEA and make good on the promise we made over 26 years ago.

I thank my colleagues for their support of this amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, the Senator from Vermont has certainly not let the people of Vermont down who have been asking for his help on this important issue. We have a long way to go on this bill. We have to take the wins when we get them. This is a tremendous win, and we could not have accomplished it but for advocacy of the Senator from Vermont.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. I also ask unanimous consent that the Senator from Vermont yield me several minutes of time.

Mr. JEFFORDS. I yield the Senator 10 minutes.

Mr. CARPER. Terrific. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I serve today in the Senate, but for the last 8 years I served as the Governor of Delaware, and for several of those years as the vice chairman and chairman of the National Governors' Association. I sometimes still think a little bit as a Governor. On behalf of the Governors of this country in all 50 States, probably, I give a special thank you to those who made possible the adoption of an amendment in this Chamber today that would provide for full funding of IDEA, to meet the longstanding obligation from the Congress for programs throughout the country that are funded in this way.

I cannot recall how many Governors' meetings I sat in where one Governor after another—Democrats and Republicans, from one end of the country to another—would say, if the Federal Government would simply meet its obligations under the Individuals With Disabilities Act, if they would only do that, we would be able to meet some of our other needs in our schools—whether the needs are small class sizes, extra learning time, or technology in our classrooms. The Federal obligation is that we would pay 40 percent of the cost of educating these children. Today we provide less than 15 percent of the cost of educating these children.

We have taken an important step in the Senate toward meeting that obligation. But it is only one step. It needs to be followed by other steps when we go to conference with the House, to make sure that what emerges from that conference committee, and what we ultimately vote on, is a final compromise containing this provision. If we do that, then the Governors of those 50 States and the parents—parents of hundreds of thousands of children—and the teachers in our schools will stand up and applaud.

I also say that as this bill comes to us today, I am encouraged. It is not a perfect bill, but it is one that offers the prospect of additional investments from the Federal Government for our schools. It offers that money with a bit more flexibility than is the case under current law. It makes it clear that we offer that additional money targeted where the needs are the greatest, but it offers that money more flexibly and demands results.

As we look more closely at the accountability provisions in this legislation, once testing begins in earnest in the various States, in accordance with annual testing and in accordance with the standards adopted by the various States, there are consequences that come to bear for schools that do not make progress in accordance with the schedule agreed to, adopted by the individual States.

If a school is not making progress in meeting its own stated goals by the end of the fourth year—if a school continues to fail its students—a number of things will happen. One is that those students in that failing school must be offered the right to go to another public school, where transportation will be provided by the school that is failing, by the school district that is failing, using up to 15 percent of their title I moneys.

There are also three other things that must happen to that school that fails for the fourth year in a row. One, it has to be closed and reconstituted as a charter school, or, two, closed and reconstituted with a new administration and with a new faculty, or, three, turned over to the State or some profitable enterprise, commercial enterprise, to run the school—those three options.

I simply remind my colleagues, as we move past the adoption of the funding for IDEA, we have to keep in mind the accountability provisions. We have focused on more money and more flexibility, and I support that. But on the accountability issue, if children are really going to have the ability to choose another public school, we have to make sure we include in this bill assistance to States and school districts across America to enable them to adopt public school choice statewide. It is not easy and it is not free.

Secondly, if we are really serious about charter schools being a viable option for schools that fail 4 years in a row, we need to provide assistance, including brick-and-mortar assistance, so that those charter schools can be successful, so the kids going to those schools will have a fighting chance to get the kind of education they did not previously receive.

I say to Senators HARKIN and HAGEL, who have worked for weeks on the legislation to increase IDEA funding and to make sure we meet our fair share of that burden, job well done.

To the Senator from Vermont, the chairman of the committee, and to Senator KENNEDY, who has been very supportive, I give my thanks as well.

On behalf of all Governors who have sought this support, sought this day, this kind of victory, it is a day to salute and celebrate for their children, for their students, and all of America.

Mr. President, I thank the Senator for yielding the time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays on the Collins amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I am not going to propound an additional unanimous consent request at this time, although we are working with the leaders on both sides of the aisle so we, hopefully, can have a further agreement entered into between 4:30 and 5. We will go ahead and be able at that time, hopefully, to lock in the sequence of amendments that will come after these two.

I announce to the Senate that following this vote, I will ask the Senate to begin debate on the budget resolution conference report notwithstanding receipt of the papers. Assuming consent is granted, I would expect several hours of debate tonight on this important conference report to be followed by a vote on the adoption of the budget conference report.

Therefore, Members should be on notice that a vote is expected to occur late tonight on the budget unless an agreement is entered into to have it at a specific time in the morning. We expect to continue working tonight and go into the night, and we will get exact timing of when we might expect another vote hopefully within the next few minutes or within the hour.

If consent cannot be granted to begin debate before the paperwork enters the Senate, then a vote would have to be scheduled tomorrow.

I hope all Senators will cooperate, and I have every indication that we will be able to get an agreement so we can vote on the budget resolution this evening.

Then we will also be able to enter further agreements with regard to additional amendments.

I believe we are ready to go to a vote at this time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 359 offered by the Senator from Maine. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—100

Akaka	Cleland	Fitzgerald
Allard	Clinton	Frist
Allen	Cochran	Graham
Baucus	Collins	Gramm
Bayh	Conrad	Grassley
Bennett	Corzine	Gregg
Biden	Craig	Hagel
Bingaman	Crapo	Harkin
Bond	Daschle	Hatch
Boxer	Dayton	Helms
Breaux	DeWine	Hollings
Brownback	Dodd	Hutchinson
Bunning	Domenici	Hutchison
Burns	Dorgan	Inhofe
Byrd	Durbin	Inouye
Campbell	Edwards	Jeffords
Cantwell	Ensign	Johnson
Carnahan	Enzi	Kennedy
Carper	Feingold	Kerry
Chafee	Feinstein	Kohl
Kyl	Nelson (FL)	Snowe
Landrieu	Nelson (NE)	Specter
Leahy	Nickles	Stabenow
Levin	Reed	Stevens
Lieberman	Reid	Thomas
Lincoln	Roberts	Thompson
Lott	Rockefeller	Thurmond
Lugar	Santorum	Torricelli
McCain	Sarbanes	Voinovich
McConnell	Schumer	Warner
Mikulski	Sessions	Wellstone
Miller	Shelby	Wyden
Murkowski	Smith (NH)	
Murray	Smith (OR)	

The amendment (No. 359) was agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 361 TO AMENDMENT NO. 358

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 361 to amendment No. 358.

Mr. JEFFORDS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the provisions relating to certain assessments)

On page 47, beginning with line 13, strike all through page 48, line 14, and insert the following:

''(i) a State may defer the commencement, or suspend the administration, of the assessments described in this paragraph, that were not required prior to the date of enactment of the Better Education for Students and Teachers Act, for 1 year, for each year for which the amount appropriated for grants under section 6203(a) is less than—

''(I) $370,000,000 for fiscal year 2002;

''(II) $380,000,000 for fiscal year 2003;

''(III) $390,000,000 for fiscal year 2004;

''(IV) $400,000,000 for fiscal year 2005;

''(V) $410,000,000 for fiscal year 2006;

''(VI) $420,000,000 for fiscal year 2007; and

''(VII) $430,000,000 for fiscal year 2008; and

''(ii) the Secretary may permit a State to commence the assessments, that were required by amendments made to this paragraph by the Better Education for Students and Teachers Act, in school year 2006–2007, if the State demonstrates to the Secretary that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous or unforeseen decline in the financial resources of the local educational agency or school, prevent full implementation of the assessments in school year 2005–2006 and that the State will administer such assessments during school year 2006–2007.

On page 778, strike lines 5 through 10, and insert the following:

''(a) GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.—

''(1) STATE GRANTS AUTHORIZED.—From amounts appropriated under paragraph (3) the Secretary shall award grants to States to enable the States to pay the costs of—

''(A) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act; and

''(B) other activities described in this part or related to ensuring accountability for results in the State's public elementary schools or secondary schools, and local educational agencies, such as—

''(i) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

''(ii) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

''(2) ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—From the amount appropriated to carry out this subsection for any fiscal year, the Secretary shall first allocate $3,000,000 to each State.

''(B) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

''(C) DEFINITION OF STATE.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. LOTT. Mr. President, it has been so hard to get this very important education bill up and actually moving that I hate to let any time go by without making some further progress. So we have been working on both sides of the aisle, and I believe we have an agreement to allow us to proceed with the Jeffords amendment next and then go to the Dodd amendment after that.

Mr. DODD. Dodd-Collins.

Mr. LOTT. No. I prefer to say just the Dodd amendment.

Mr. DODD. I am just trying to help out.

Mr. LOTT. You are giving too much credit here, I say to the Senator. No.

We would try to have the vote on both of these at 7:30. I think that is more than enough time. I hope that maybe even some time could be yielded back. That way we could make progress. Senators could attend to other business and then would be prepared to be here for those two votes between 7 and 7:30, or not later than 7:30.

I also had intended—and hope to get agreement—to proceed to the conference report to accompany H. Con. Res. 83, the budget resolution, immediately following those two votes. I was not going to try to get a time specified as to exactly how we would use the time or when a vote would occur. I understand that the Democrats are not prepared to agree to that at this point. And I cannot force it at this point.

I do think it is very important we get an agreement on the budget resolution as soon as we can so Members can know what to expect tomorrow, and/or Monday, and so that we could get this completed so we can move on with our annual appropriations bills and also our reconciliation bill.

So I now ask unanimous consent that the next two first-degree amendments to be offered to S. 1 be the following, and not subject to second-degree amendments: Jeffords No. 361 and the Dodd-Collins amendment.

I further ask consent that votes relative to these amendments occur at 7:30 in the order in which they were offered, and the time between now and then be equally divided and run concurrently on both amendments, and there be 2 minutes prior to each vote for explanation.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, and I will not object, other than to say that we appreciate the leader not asking for the last paragraph of the request that is written on the paper in front of me. We are trying to work that out.

As the distinguished majority leader knows, we are in consultation with the ranking member, Senator CONRAD. Senator DASCHLE has been in touch with him. We are going to try to work something out as soon as we can.

Mr. LOTT. I thank Senator REID.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 361

Mr. JEFFORDS. I have an amendment at the desk.

The PRESIDING OFFICER. The amendment is pending.

Mr. JEFFORDS. That is right. I thank the Chair.

Mr. President, my amendment will establish the Federal Government as a full partner in the assessments that are required under this bill.

Earlier today, the Senate went on record, after 26 years, to fulfill its responsibility under IDEA. My amendment will ensure we do the same on testing, only we do it today, not 26 years later.

If we want the States to undertake these extensive testing requirements, we should be willing to pay for them. Each Senator I have spoken to supports the thrust of this amendment—that we avoid creating yet another unfunded mandate, especially at a time when we are asking more and more of our schools.

Good tests are not cheap. They must be aligned with the State's standard. They should measure higher order thinking, and they should constantly be improved. This bill will not just require testing in reading and math but will also require standards in history and science and an assessment later on in science.

My amendment calls for close to $400 million in spending each and every year to help pay for the cost of developing and implementing assessments. If the money is not forthcoming, the State's obligation will be suspended until Congress meets its obligation.

The exact cost of testing cannot be known. I can tell my colleagues with confidence that this amendment will cover the great majority of those costs. I urge my colleagues to give me their support.

I yield the floor to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend the chairman of the committee for drafting this very important amendment to the bill.

I have been concerned that we could be imposing an expensive new mandate on State and local governments through the testing requirements of this bill. Testing is very important, but I think we need to provide support. The chairman's amendment will ensure that the funding is provided to help States and local school districts develop the very best possible tests in order to assess the performance of their students and that we will be providing a good chunk of the money to do so.

I commend the Senator for his amendment and for understanding that we need an assurance that that funding will be forthcoming before imposing this requirement.

Again, I thank the Senator from Vermont for coming forth with this important amendment.

Mr. JEFFORDS. Mr. President, I know of no other Senator who desires to participate in the discussion. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. JEFFORDS. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my colleague from Vermont for his amendment. I would add myself as a cosponsor, but I don't want to get into trouble. I will tell him I am for it and cast my vote when the time comes. He has been a wonderful leader on education issues for many years and cares about it very deeply. He comes from a great tradition in his home State of Vermont where Members of this body have dedicated a good part of their careers to improving the quality of education. I commend him not only for the amendment he has just introduced but also for his tireless efforts over the years.

AMENDMENT NO. 365 TO AMENDMENT NO. 358

Mr. DODD. Mr. President, I send an amendment to the desk offered by myself and my colleague from Maine, Senator COLLINS, and Senator LANDRIEU, among others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Ms. COLLINS, Ms. LANDRIEU, Mr. BINGAMAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. CORZINE, Mrs. MURRAY, Mr. LIEBERMAN, Mr. REED, and Mrs. CLINTON, proposes an amendment numbered 365.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the authorization of appropriations for local educational agency grants)

On page 31, strike line 23 through line 2 on page 32, and insert the following:

''(a) LOCAL EDUCATIONAL AGENCY GRANTS.—

''(1) SHORT TITLE.—This subsection may be cited as the 'Equal Educational Opportunity Act'.

''(2) AUTHORIZATION.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated—

''(A) $15,000,000,000 for fiscal year 2002;

''(B) $18,240,000,000 for fiscal year 2003;

''(C) $21,480,000,000 for fiscal year 2004;

''(D) $24,720,000,000 for fiscal year 2005;

''(E) $27,960,000,000 for fiscal year 2006;

''(F) $31,200,000,000 for fiscal year 2007;

''(G) $34,440,000,000 for fiscal year 2008;

''(H) $37,680,000,000 for fiscal year 2009;

''(I) $40,920,000,000 for fiscal year 2010; and

''(J) $44,164,000,000 for fiscal year 2011.

Mr. DODD. Mr. President, I will take a few minutes. Others may arrive shortly. In fact, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I am very pleased to offer this amendment on behalf of myself and my good friend and colleague from New England, Senator COLLINS of Maine, among others; Senator LANDRIEU of Louisiana; my colleague from Connecticut, Senator LIEBERMAN; and others who have been supporters of seeing to it that we have the goal—that is what this amendment is; there are no mandates in this amendment—of full funding for title I over the next 10 years.

I ask unanimous consent that a chart be printed in the RECORD showing how title I funds are presently allocated and what this amendment would do if it were an appropriation—which it is not—and were to be adopted, in terms of the number of children who would then benefit under this amendment if it were to receive full funding.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACTUAL FY2000 (2000–2001) ESEA TITLE I, PART A GRANTS

	Children counted in allocating part A grants, FY 2000	Total basic and concentration grants	Accountability grants	Capital expenses	Total basic, concentration, accountability, and capital expenses grants	Total grants per child counted for allocations
United States	10,266,051	$7,807,397,0900	$134,000,000	$12,000,000	$7,953,397,000	$774.73
Alabama	192,377	129,133,448	2,239,838	25,918	131,399,204	683.03
Alaska	16,346	19,089,449	331,109	62	19,420,620	1,188.10
Arizona	191,360	121,896,690	2,114,315	131,143	124,142,148	648.74
Arkansas	121,258	79,070,702	1,371,492	37,976	80,480,170	663.71
California	1,440,856	972,870,300	16,874,570	1,830,602	991,575,472	688.18
Colorado	94,208	71,304,340	1,236,784	28,218	72,569,342	770.31
Connecticut	79,352	70,351,232	1,220,252	97,270	71,668,754	903.18
Delaware	17,423	21,268,392	368,903	0	21,637,295	1,241.88
District of Columbia	28,811	25,547,302	443,121	197,710	26,188,133	908.96
Florida	537,170	363,365,948	6,302,633	169,492	369,838,073	688.49
Georgia	315,471	210,267,990	3,647,127	29,150	213,944,267	678.17
Hawaii	27,586	20,157,643	349,637	7,521	20,514,801	743.67
Idaho	34,959	23,516,224	407,892	10,069	23,934,185	684.64
Illinois	386,359	326,710,586	5,666,840	626,443	333,003,869	861.90
Indiana	146,101	116,421,506	2,019,347	139,161	118,580,014	811.63
Iowa	65,848	53,287,278	924,275	114,797	54,326,350	825.03
Kansas	73,562	56,306,231	976,639	87,760	57,370,630	779.89
Kentucky	170,233	127,790,039	2,216,536	91,428	130,098,003	764.23
Louisiana	260,808	191,235,915	3,317,013	330,407	194,883,335	747.23
Maine	34,734	31,963,499	554,411	10,007	32,527,917	936.49
Maryland	114,292	102,603,524	1,779,672	75,889	104,459,085	913.97
Massachusetts	149,980	153,374,071	2,660,294	568,641	156,603,006	1,044.16
Michigan	348,377	334,366,422	5,799,632	277,452	340,443,506	977.23
Minnesota	103,181	87,985,945	1,526,128	244,884	89,746,957	869.90
Mississippi	156,879	124,796,295	2,164,609	129,714	127,090,618	810.12
Missouri	190,061	134,785,325	2,337,870	253,523	137,376,718	722.80
Montana	35,471	26,320,082	456,525	21,940	26,798,547	755.51
Nebraska	38,316	32,206,952	558,634	83,658	32,849,244	857.32
Nevada	37,365	23,321,774	404,519	4,910	23,731,203	635.12
New Hampshire	16,079	19,697,776	341,661	7,458	20,046,895	1,246.77
New Jersey	184,403	177,216,019	3,073,836	400,516	180,690,371	979.87
New Mexico	108,931	66,239,892	1,148,940	72,346	67,461,178	619.30
New York	811,011	731,360,429	12,685,548	1,904,316	745,950,293	919.78
North Carolina	238,302	150,972,799	2,618,644	10,193	153,601,636	644.57
North Dakota	18,999	19,820,740	343,793	25,234	20,189,767	1,062.68
Ohio	339,503	302,371,742	5,244,680	458,381	308,074,803	907.43
Oklahoma	153,064	96,337,713	1,670,991	20,448	98,029,152	640.45
Oregon	79,615	68,818,656	1,193,669	46,677	70,059,002	879.97
Pennsylvania	354,835	335,858,213	5,825,507	1,382,601	343,066,321	966.83
Rhode Island	27,324	24,654,345	427,633	89,998	25,171,976	921.24
South Carolina	159,793	100,733,900	1,747,243	7,521	102,488,664	641.38
South Dakota	27,908	19,734,301	342,294	18,335	20,094,930	720.04
Tennessee	191,731	134,693,146	2,336,271	24,488	137,053,905	714.82
Texas	984,807	665,787,285	11,548,173	453,346	677,788,804	688.25
Utah	39,442	35,293,180	612,165	7,645	35,912,990	910.53
Vermont	14,064	17,738,863	307,683	15,352	18,061,898	1,284.26
Virginia	178,979	118,413,150	2,053,892	40,027	120,507,069	673.30
Washington	139,324	108,939,573	1,889,572	38,659	110,867,804	795.76
West Virginia	85,656	73,479,762	1,274,517	18,832	74,773,111	872.95
Wisconsin	133,180	125,861,555	2,183,086	285,594	128,330,235	963.58
Wyoming	13,851	17,754,152	307,948	7,893	18,069,993	1,304.60
Puerto Rico	556,506	262,415,735	4,551,637	1,038,395	268,005,767	481.59

Mr. DODD. I note my good friend from Alabama is in the chair. His is always the first State on the list. But just to make the point, presently there would be some 10 million children in the country who would be served by title I out of the 55 million children who go to school. In the case of Alabama, there would be 192,377 children who would be served if we had full funding. That number today is about a third of that number, a third of the 192.

If we go down the list—and what I have provided in the first column is what full funding would provide—and look at the number under your State and then calculate what one-third of that number is, you would get a rough idea of what the present number of children is who are being served. Of course, the number itself reflects what

full funding would amount to in all 50 States. That is what this chart provides.

As we know, our society is based on the promise of equal opportunity, not equal success. None of us bears an obligation to guarantee the success of anyone, but we all share the common goal that everyone ought to have an equal opportunity to succeed.

This amendment, offered on behalf of myself and my colleague from Maine, and others, is designed to see to it that, as we ask for in this legislation, as we will over the coming days, there be greater accountability at the local level—in fact, a requirement of additional testing—so that we don't just socially promote students through the educational process; that we have some data about how students are doing—taking their temperature, in effect.

Imagine, if you would, taking a temperature every year to see how the patient is doing. We know that just taking the temperature doesn't make a child better. We may get some idea of their health, but we don't really know or are not really providing any medicine that they need in order to improve the quality of their health.

What title I does, and what it has done historically, is to provide that needed medicine, which I will demonstrate in these remarks, to the most disadvantaged children in our society. Title I represents about one-third, or a half, almost, of the entire Federal dollar commitment to education in the country. It is what our primary responsibility has been over the last 35 years since we decided to enact the Elementary and Secondary Education Act.

Just to back up a little bit and put this in perspective, the Federal Government, when it comes to elementary and secondary education—this may come as a shock to some—allocates between one-half and 1 percent of our entire Federal budget to elementary and secondary education. If we add higher education, that number jumps to about 2 percent of the entire Federal budget. If we exclude higher education and just take elementary and secondary, it is between one-half and 1 percent of the entire Federal budget. That is our commitment.

If you take the amount of money being spent on elementary and secondary education, for every dollar that is spent, that one-half of 1 percent amounts to somewhere between 4 and 7 cents on the dollar. In other words, for every dollar that is spent to improve or invest in the elementary and secondary education needs of America's children, about 94 or 95 cents comes from our local communities or our States, and about 5 or 6 cents comes from your Federal Government. That is one-half of 1 percent of the Federal budget.

So when we start talking about title I, which was designed to go to the neediest districts in both rural and urban areas, we are talking about a sizable percentage of that 4 or 5 cents on the dollar. Yet we have never gotten to the full funding of title I since we initiated it 35 years ago. We are only serving about a third of title I eligible children in the country. So what the Senator from Maine, myself, and others are saying is that sometime over the next 10 years we have laid out a schedule, but obviously the schedule is an authorization subject to whatever changes this body and the other body and the President would like to adopt. Then we could modify this formula.

We have laid out a formula for our colleagues that doesn't mandate anything. It just sets out a goal and says that as we are going to test children, as we are going to ask for greater accountability, we also want you to know that we believe as a goal that we ought to fully fund title I to give these children a chance to reach their maximum potential educationally. That is what this amendment is really designed to do.

Let me lay it out a little bit. Congress passed the ESEA to help provide disadvantaged children with an education to enable them to take advantage of America's promise of equal opportunity, and the primary mechanism for delivering on that promise has been title I grants for schools.

Title I does more than just serve all eligible children. The reason why is simple: According to the Congressional Research Service, Congress funds title I grants to local education agencies at only about one-third of the amount allowed under the formula.

Twenty percent of schools with poverty levels between 50 and 75 percent receive no funds at all. Let me repeat that. Twenty percent of all the schools in America with poverty levels between 50 and 75 percent do not receive any title I funds today at all. And 36 percent of schools with poverty rates between 35 and 50 percent do not receive any funds.

So it is quite clear that an awful lot of eligible children that are clearly disadvantaged, by any standard, are not getting the kind of help that we originally envisioned with title I. About one-third are, if you take the country as a whole. Some areas get zero.

So our goal with this amendment, without mandating anything, is to say that over the next 10 years we would like to get as close to living up to and fulfilling the promise made of serving these children.

The bill we are debating will impose, as we know, some significant testing and accountability standards, many of which I think most colleagues support, on States and local schools. I think all of us agree—although the devil is in the details—that we need to know how students are doing in school and that States and schools need to be accountable for educating our children.

We need to remember that testing and accountability aren't the same as reform. They measure reform, or they measure how students are doing, but they are not reform in and of themselves. Some of my colleagues have said that we should not provide schools with more resources until we have implemented these reforms.

This bill would require schools to set the goal of having all children become proficient in reading and math in 10 years. That is what the bill says. It only makes sense that we in Congress set a goal for ourselves of providing districts with the resources over the 10 years that they and the students and schools will need to meet the goals of proficiency in reading and math. That is reform.

Some often talk about the importance of communities, not the Federal Government, in making decisions about education policy. I don't disagree with that at all.

Mr. President, this is a very important point I want to make here because I think this gets lost, and sometimes we talk about titles and numbers and programs and you can glaze over the eyes of even the most interested listener when you start talking in acronyms and numbers and so forth. Average people who even care about education can get lost in all of this. But this is a very important point I want to make about title I because I think there are a lot of misimpressions about how title I funds are allocated and what it means if you get title I funds in your town and school.

Title I funds are used in a completely flexible fashion—completely flexible—if you are a qualified district and the students are qualified. There has been great flexibility. Schools, for instance, use title I funds to hire new teachers and provide them with professional development. Title I funds are used to provide new technology in schools if the district desires it and thinks that is the best way to improve their education. They use title I funds to implement cutting-edge research based on new academic programs to provide better, more intensive instruction in reading and math to students with the greatest educational need. They use title I funds to support preschool and afterschool activities. They can be used to support any number of other activities to increase student achievement.

The only goal required in the title I that we have ever mandated is that they should be designed to reach eligible children and to increase student achievement. That is it. So at the local level, if you are a qualified student or qualified school district and you are designing a program to increase student achievement, then title I funds can be used. That is all we really require.

Despite the rumors and the misinformation about title I, this is not some narrowly construed, highly narrow Federal mandate. We really do allow great flexibility.

Contrary to what some have also argued, schools have been implementing reforms, and we need to do more to help them. The Department of Education 1999 National Assessment of title I, which was done, I might add, in

consultation with an independent review panel, found the following: Since 1992, national reading performance has improved for nine-year-olds in the highest poverty public schools, regaining lost ground in the late 1980s and early 1990s. Since 1992, math achievement also has improved among students in the highest poverty public schools.

Another study, which I have put up here for the edification of those who might like to see it, found in 1999 that students receiving title I services increased their reading achievement in 21 of 24 urban districts studied, and increased their math achievement in 20 of 24 urban districts studied.

Mr. President, it is apparently working. Again, I come back to the fact that there were a significant number of school districts where students were not receiving any funds. But where they are, it is making a difference.

In 2000, the Rand Corporation found that the largest gains in test scores over the last 30 years have been made by African American, Hispanic, and white disadvantaged students when title I funds have been expended.

A study published this year concluded that, ''Whenever an inner city or poor rural school is found to be achieving outstanding results with its students by implementing innovative strategies, these innovations are almost invariably funded primarily by title I.''

Mr. President, these title I funds are making a difference. They really make a difference. Our goal is not to mandate these funds, but to say that if over the next 10 years we really want to raise the level of achievement, and if we are going to test people over the next 10 years to reach full proficiency in math and reading, our goal is to fully fund this program that is making a difference today.

Some of my colleagues say that although we have spent about $120 billion on title I since 1965—which is true. Over the last 35 years, we have spent about $120 billion in this program—there is still a huge achievement gap. There is; they are right. Even the numbers showing improvement don't really deserve to be heralded too much because where they started from was so low that while it is improvement, it is not a level that any one of us would accept as satisfactory, but clearly there has been. Therefore, they say, because we spent this amount of money and still have an achievement gap, we should not spend any more money until we get the reforms.

Let's keep in mind that title I spending represents only about 3 percent of all spending on elementary and secondary education nationally. Let's not blame all the problems on title I. It is such a tiny percentage. Again, you start talking about a dollar being spent, and I mentioned that about 5 or 6 cents is the Federal commitment, and of the 5 or 6 cents, about 3 cents is title I. So when people say your title I money is a waste of money because the 3 cents isn't working, remember, there is about 95 cents that we ought to look at in terms of where that is going. So title I funds are important.

Many experts argue that to the extent there is still an achievement gap, as I said, title I has kept it from growing even greater. I think that is probably a more accurate statement.

The new Secretary of Education, Secretary Paige, the former superintendent of schools in Houston, TX, has often spoken about the need to shine a spotlight on those schools so that parents and the public will bring pressure to bear where schools aren't doing their job.

I could not agree more. The parents and public have a right to know how the schools are doing and a responsibility to get involved. But if we do not provide schools with the resources they need to implement reforms, then all of the testing and accountability in the world is not going to make any difference.

As my colleague from Louisiana, Senator LANDRIEU, has often said—and I think it is a good statement—resources without reforms may be a waste of money, but reforms without resources are a waste of time. And I agree with that statement. Testing and accountability without more resources are an unfunded mandate, however well-intentioned.

No one questions the need for reform and no one should question the need for more resources for the full funding of title I. Congress passed the Elementary and Secondary Education Act 36 years ago because of the achievement gap, and we need to provide schools with the resources to close it.

This again does not mandate dollars. It sets the goal over 10 years. Many agree if we do not have an adequate allocation of resources that we may be creating an unfunded mandate, where we are going to shut down schools, close the doors, without providing the financial backing that is needed.

As I said, only 2 cents of every dollar go to education, and less than that, in fact, if you are talking about elementary and secondary education. Eighty percent of American citizens approve more than doubling the Federal investment in education in the next 5 years. We are talking about a 10-year commitment.

I know all of us are interested in closing the education gap for disadvantaged students. This amendment, while an authorization, is an important step in that direction.

We will have further debates on the appropriations bill down the road. There will have to be an agreement struck between the White House and Congress, but many of us, Democrats and Republicans, would like to go on record that over the next 10 years we ought to try to get it. There may be other reasons that get in the way, but sending a message to America that we care about this; that as an authorizing bill these goals are commendable and deserving of bipartisan support in this body.

I yield the floor to my colleague from Maine who I know wants to be heard. There are several other Members who want to be heard on title I. I have already taken more time than I should have. I apologize to my colleagues. I thank my colleague from Maine.

I mentioned earlier my colleague from Vermont who has done so much on education issues, but Senator COLLINS from Maine, from the day she arrived, has been committed to these issues.

There are many reasons why I enjoy my service on the Health, Education, Labor, and Pensions Committee—I think that is the right name. We sometimes change the names of the committees, the education committee—but no more significant reason than serving with the Senator from Maine whom I have joined on numerous occasions on a variety of efforts where we find common ground. We have on this amendment, Mr. President, and I am delighted to join her in this effort.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I yield time to my colleague from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I first commend the Senator from Connecticut for his extraordinary efforts. He has such a commitment to improving the education of disadvantaged children. He has been a leader in this effort, and I am very honored and pleased to join him tonight as his principal cosponsor of a very important amendment.

We talked a great deal during the past few days about what the proper role is for the Federal Government with regard to education. We all agree that States and local communities have the primary responsibility for education, but since the mid-1960s, when the Federal Government first passed the Elementary and Secondary Education Act, the role of the Federal Government has been to promote educational equity, to try to narrow that persistent and troubling achievement gap between disadvantaged children and their peers. That is the reason the Federal Government is involved at all in education. It is to help with the education of the poorest children in this country, to help ensure they have the same opportunities as children from more affluent families.

Title I authorizes Federal aid to State and local education agencies for the education of these disadvantaged children. Title I grants are used to provide supplementary educational and other services to low-achieving children attending schools with relatively high concentrations of pupils from low-income families.

Much has been made of the fact that more than $120 billion has been poured in to title I programs over the past 35

years with not much to show for results. I understand that argument, and I am concerned that we have not made more progress in providing educational opportunities to disadvantaged children, but I firmly believe that is about to change.

We are not talking about putting considerably more money and doing things in exactly the same manner. We are not talking about pouring more money into a failed system. Instead, what we are putting forth with this bill is a new approach, a reformed system, a system that sets forth the goal of leaving no child behind, including and especially those children from disadvantaged families.

We are talking about having accountability, of holding schools responsible for what really counts, and that is improving student achievement. We are changing the focus from regulations and rules to results. We are asking the right questions. We are asking the question, ''are our children learning?'' And not, ''Was that form filled out correctly?'' That is a fundamentally different approach to education policy.

With the leadership of President Bush and the Members on both sides of the aisle, the Senate has produced landmark legislation, the BEST Act, legislation that I believe may well be the most important bill we consider this year. It is legislation that I believe will help turn around many failing schools across America.

With this act, we are making a fundamental change in our expectations for our schools. We are rejecting what President Bush has so eloquently called the soft bigotry of low expectations. But along with reforming the system, as we are imposing these new requirements and holding schools accountable for improved student achievement, we need to provide some assistance with the financial aspects of reform.

The amendment I have cosponsored with Senator DODD will do just that. Our amendment authorizes the Federal Government to provide the poorest schools in our country with significant additional funding over the next 10 years. Our effort would set the goal of fully funding title I programs by the year 2011.

We may not be able to do it. We may not be able to produce the appropriations over the next 10 years that match these authorization levels, but shouldn't we set forth the goal of doing so?

Shouldn't we challenge ourselves, just as we are challenging schools, parents, teachers, administrators, school boards, and students all over this great Nation to increase their standards, to set high standards for our children, and to hold schools accountable for improving student achievement?

Shouldn't we, too, set high standards for ourselves? Shouldn't we challenge ourselves to meet the goal of fully funding title I?

That is what our amendment proposes.

We should be troubled by the growing achievement gap between disadvantaged students and their peers. Recent test results suggest we are going in the wrong direction, that the students who are performing the worst are actually getting worse. We cannot accept that. We have to make the difference.

The system has failed to narrow this persistent and troubling achievement gap over the past 35 years. That is why we need the fundamental reforms included in this legislation. But it is also why we need to put more resources into the system to support these new reforms.

We have set these challenging goals for the schools of America. Let members set an equally challenging goal for ourselves to fully fund title I. I urge my colleagues to support this amendment and to join with the Senator from Connecticut and with me in setting this goal for America's schools.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Maine for her eloquent statement. I know my colleague from Tennessee wants to make some remarks, and I yield whatever time he may consume.

Mr. FRIST. Mr. President, we have two amendments on the floor now. My colleague from Vermont talked 30 minutes ago about an amendment that is very important that I want to elaborate on and express my support for, while addressing some of the issues that, to me, are very important. It is important the American people understand the significance of that particular amendment.

Earlier today we addressed the issue of fulfilling an obligation on behalf of our Government, an obligation we made through a mandate called IDEA, Individuals with Disabilities Education Act.

As we debated in this body in the past we put a mandate on local schools and school districts and on States to fulfill a very important obligation. That mandate was to make absolutely sure we didn't leave individuals with disabilities behind. In doing that, it imposed certain additional costs on the system locally. Yet we never fulfilled our obligation in supporting that so-called unfunded mandate. That is exactly what it is. We addressed that earlier today.

In spite of our best efforts over the last 6 years and a true market increase in funding, we have a long way to go to address that issue.

I think this bill, through bipartisan cooperation and the addition to the underlying bill worked through the Health, Education, Labor, and Pension Committee, goes a long way in stressing President Bush's agenda of education, looking at local control, accountability, measurable standards, and involvement of parents and empowering parents to make choices in the best interests of their children, instead of having the Federal Government or bureaucrats making those decisions. There will be a lot of debate as to whether it went far enough in areas such as choice and parental involvement, while others said we went too far.

It is important to recognize the accountability provisions in this bill are strong. They have been strengthened, I believe, after a lot of debate in the Health, Education, Labor, and Pension Committee and have been strengthened through bipartisan efforts of Democrats and Republicans and representatives from the administration working very hard to make sure whatever we do in terms of streamlining—getting rid of red tape, allowing the freedom to innovate—we couple that freedom with very strong accountability provisions. These are not block grants as we have in the bill elsewhere. These are performance grants. Don't just give money to the problem and walk away. We have tried that and it does not work. We invest the money and measure the results, and we measure the results in a way that it helps not to just identify the problem but make the diagnosis specifically as to what the problem is so we can fix it. Reward success; do not reward failure. If there is failure, further invest if necessary or put in a type of reform in an innovative way, that could correct whatever the deficiency.

What has become apparent to most everyone today is that over the last 35 years, in spite of very good intentions, we have not made the accurate diagnosis as to why the achievement gap is getting worse every year and why we are failing to boost the academic achievement of the disadvantaged or the underserved, the less fortunate. Looking at international comparisons and what progress has been made over the last 30 years, we have to figure out how to eliminate the achievement gap and define it. That means more assessments.

We will hear people who do not like assessments saying it is a bunch of Federal tests we are imposing on local communities, and there is no Federal role for that. People will call and say we already have too many tests out there and that is not the problem. We are already testing our kids four or five times a year.

It is now apparent for the first time, and this is why the bill is so important, the accountability, making the diagnosis, identifying the problem, and defining it, requires an understanding of where we are today but also making comparisons over time. If you just give a test sporadically or there is no uniformity to the test, there is no ability to longitudinally, year by year, compare and there will be an inadequate diagnosis.

A bunch of results such as A, B, C, D, E, or F, and you will not know whether a B in Nashville, TN, is the same in Alaska or down in Florida or California.

All of this requires a degree of standardization but not a Federal test.

Again, I have talked to people around the country today who are calling and asking: Are you going to impose this national Federal test designed by bureaucrats or designed by the Department of Education or designed by Senators? The answer is no.

The assessment, however, is critical. We have spent, according to Secretary Paige, about $150 billion over the last 35 years, and we have hundreds of new programs. In spite of that, too many children are being left behind by our education system. That is the problem.

Now we have to make the diagnosis. It means accountability systems and the foundation of making that diagnosis, the foundation of those assessments, and the foundation of defining that problem means we have to assess, and we have to assess on a regular basis so we can intervene at the appropriate time —not just once in the fourth grade, wait 4 years and test that same individual in the eighth grade because then it is too late, and 4 years are lost.

Thus, in the underlying bill, which I think is critically important, we have the annual assessment of all students in reading and math in grades 3–8 consistent with President Bush's proposal. That is a problem. The problem is out there, and we can define the problem and define it earlier. We can track a school or an individual. If they are doing OK the first year, worst next year, worst next year, we can intervene. Whereas today we cannot intervene because the test that is applied, there is no uniformity, and we do not know if the test in the eighth grade is the same in the fourth grade, if there is a difference. There is no standardization.

Now, it is critical; this is not a Federal test. We are not designing a curriculum. That is dangerous. Everybody will be out there teaching just to the test and that will probably not give the results that are desired. Therefore, in this bill, it very specifically says that States would be free to develop their own assessments, but they have to be linked to state standards, No. 1; and No. 2, student achievement results must be comparable to year after year after year—fourth grade, fifth grade, sixth grade, seventh grade, eighth grade. We have to compare year to year. It is like looking at the heart, and you take pictures and you see parts at a time, and that is useful, but it is really useful to get an EKG 1 year, and the next year, and the next year. That is where the powerful diagnosis is actually made.

States would be required, in addition, to report those assessment results. Can you do a test and get accurate data to make the diagnosis? Unless you give that information to somebody who can use it to intervene or correct, once again, it might just be a bunch of test results sitting on a shelf that nobody looks at, an accurate test, a cross-sectional and longitudinal comparison. Then you have to require reporting of that information—this is in the bill—to the parents. Again, the importance of this bill is it empowers parents to make choices, to be involved, to make demands, to hold teachers accountable or schools accountable, again consistent with the principles of President George W. Bush. Those results are also reported and spelled out to the public in the bill.

The test results also—again, it is important because of this achievement gap—must be disaggregated. You don't want to report in the aggregate how good a school or district or State does. You want to be able to take out that data, dissect it out. Therefore, in the bill we say that you have to do what is called disaggregation. Instead of lumping all the data together, you want to be able to take it apart, again so you can more specifically and better identify what the deficiencies might be, or what groups are doing well, what groups are not doing well. So there will be this so-called disaggregation or further dissection of the information and data by socioeconomic status, by disability, by language proficiency—all of which you can address in innovative and creative ways if there is failure.

All of that brings me back to the Jeffords amendment. That is because those are mandates of a sort, but they are mandates that are carried out at the local level—again, not a Federal test but a State-designed or locally-designed test. But it is a mandate. You have to give the test. You have to give the paper. You have to wait the hour or two. You have to grade it. You have to develop the test. You have to make sure it is a useful test in a longitudinally and cross-sectional way.

In 1994 when we addressed the reauthorization—and we have to learn from our past mistakes—we did not quite get it right. Remember, we reauthorized ESEA, or the Elementary and Secondary Education Act, seven times. In 1994, Congress adopted a State assessment requirement for title I but at that time did not provide the funds to the States to meet that requirement. Again, you have a mandate out there and you have no resources to go with it, and therefore it has had very little in the way of impact.

The significance of the Jeffords amendment, once it is added to this bill and voted upon in an hour and a half or so, is it will commit the Federal Government to sharing the cost of the proposed assessments, of the proposed testing. What it specifically does, S. 1, or the Jeffords amendment once inserted into S. 1, is it will provide $370 million in the year 2002. There will be annual increases of $10 million each year all the way out to 2008. A total of about $2.8 billion will be added through the Jeffords amendment over 7 years.

There was a discussion of from where that figure came. It came from a lot of analysis and a lot of study. I want to tell my colleagues that because this was initially raised in one of the working group meetings, the bipartisan working group. It became very clear that we were all concerned about giving this additional responsibility to States and local communities.

Everybody said: How much does it cost to conduct a test or to develop a test? Again, the data that came back showed that there is a lot of variation from State to State.

A State such as Tennessee has been very involved in testing many times during the year for many of the grades and therefore has gotten on down the line. The cost is going to be less. We will still be able to use many of those tests and adapt them according to Federal standards.

The 7-year cost estimates have ranged, in terms of estimates you see in the press circulating around, from $2 billion to some as high as $7 billion. But the more we as a group looked and analyzed this data, the more comfortable at least I became with this figure of about $2.7 or $2.8 billion as a part of carrying that additional burden that the States will have for this testing. Again, it depends so much on how much is already going on in that State.

It also depends on what types of assessments are out there. You can do all sorts of assessments, what is called norm-referenced assessments or criterion-based assessments. There are States such as Massachusetts, I believe, which have a certain criterion that far surpasses even what we require. We are able to compare State by State.

I, for one, am very comfortable with the Jeffords amendment as sufficiently and appropriately supporting that incremental cost with this increased requirement, very important requirement, of accountability to make sure, in everything else we are doing, we are linking any change we proposed in this bill to strong accountability.

In closing, I urge support of the Jeffords amendment to S. 1.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I yield as much time as she may consume to the distinguished Senator from Louisiana, who is a principal cosponsor for full funding for title I, an amendment by myself and the Senator from Maine.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleagues, Senators DODD and COLLINS, for their great leadership in this area. In committee on many days, in many meetings, in many different forums, these two have been just tremendously powerful voices for a very important piece of our education reform efforts, and that is, in fact, title I.

The title, the block grant, if you will, is the money that goes to all of our school systems and our districts to help turn around poor performing schools, to help reach those children who are in the greatest need, to help reach those counties—in Louisiana's

instance, our Parishes—where the tax base is minimal or weak, where even well-intentioned individuals who want to give more revenues for schools cannot because of their limited capacities. Title I was intended, when it was created, to be the answer to that, to help equalize the playing field. It was intended to make real what we say about giving equal opportunity for children.

I thank them because they were very forceful in committee and now bringing this amendment to the floor, in which it seems many of our colleagues are going to join.

I also thank Senator KENNEDY for his outstanding work in the whole area of education, for working so diligently to bring us to the underlying compromise which Senator JEFFORDS' amendment represents, which is a strong accountability component. The Federal Government now really enters into a partnership with States to not just throw more money at education but to improve every school. It will give them the resources to help frame the goals. It will give them the tools they need to set their own standards of performance and to increase testing and accountability in addition to adding investments through title I to meet those goals.

Senator KENNEDY and Senator JEFFORDS, Senator LIEBERMAN, Senator BAYH, and so many others have been engaged in this compromise. I am proud to be here to support it and to speak for just a moment on what the title I amendment will do for Louisiana.

Mr. President, for your State, Alabama, which is similar to Louisiana, it will be a tremendous victory for our schools and our schoolchildren, particularly in the South, particularly in areas where there are high concentrations of the poor. If this amendment we are advocating is adopted and the authorization for title I is increased as substantially as this amendment calls for and the underlying agreement allows, it is going to mean, for Louisiana, an additional $161 million. That is going to help add resources to one of the strong accountability systems we have in the Nation.

I commend our Governor and our legislature, our BESE board, for stepping out years ago, introducing rigorous tests and accountability, trying to identify failing schools. If we are successful in not only passing this amendment and authorizing this increase in title I but ultimately successful and can lean hard on the appropriators—and I am a new member of that committee—to actually get this money appropriated, it will be a tremendous help to Louisiana, to Alabama, to California, to New York, to Maine, to Connecticut—to all of our States, to give those administrators the resources they need to help these schools turn around and improve.

In addition, on a separate amendment which is not what we are discussing but was already adopted, we have now made a commitment and a statement in the Senate that we want to live up to full funding for special education.

If we will do those two things—get the full funding for special education and, in fact, adopt this title I amendment, and get the money actually funded through the appropriations process—I would say we have done more to really improve, enhance, and strengthen public education than we perhaps have done in the last 30, 40, or 50 years. I mean that. Let me tell you why.

Some Senators have made statements that would lead people to believe that in the years past we have really funded title I and that the problem is we just kept funding it but we didn't ask for results. I would like to take issue with that in the few minutes I have.

Title I was created under President Johnson's administration with the idea that for the first time in America the Federal Government would step up to the plate and recognize there were some areas of our country that needed extra help and tried to provide extra money for these schools. We have really barely kept pace with inflation. While the amount of money has gone up, when you look at it, it has barely kept pace with inflation.

This amendment would significantly increase our investments in title I so we can live up to that promise we made 35 years ago. Whether children live in the rural part of Maine or Louisiana, or Massachusetts, whether they are in a poor pocket of a large urban area; whether their community can afford to pay high property taxes or whether there is property of value to tax, these children could get qualified teachers; they could get computers; they could get technological training; they could have access to wonderful libraries, not only physically but on the Internet; they could have courses in science and literature to help build the kind of education they need to break out of the cycle of poverty.

We know schools can't do all of it. We know parents, families, and the community have a role to play. But I can tell you, as a great beneficiary of an education system, that every single Senator in this room has benefitted. Some Senators came from very wealthy families, but many Senators came from poor families with very limited opportunities. If it wasn't for strong parents and a good sense of community and a good education, none of us would have made our way to the Senate.

That is why I believe so strongly in title I and why I thank Senators DODD and COLLINS for putting forth this amendment while we have a projected surplus to make a real commitment in moving these dollars to title I.

Lets add another word about title I. Title I is not just one part. There are four parts to it. There is a basic grant that is distributed to all the States based on the number of poor children. Then there are three other parts laid on top of that to make sure the money we send actually reaches to the poorest districts that need the most help.

While this amendment doesn't specifically direct those dollars in that way, the underlying amendment and the underlying bill basically say if this amendment is adopted, the new money—we are talking about a significant amount of new money, $6.4 billion—will not only be added to title I but it will be appropriated through those targeted concentration formulas so that States such as Louisiana that have high rates of poverty can be well served, and so that in the field Federal Government will, in fact, step up and be a real partner to these States and these local communities that are trying their very best to make the kind of real reforms that we are advocating.

It will enable them to provide this new testing—not just fake tests, not just the easy tests, not testing on the cheap, but good tests and good accountability measures so we can identify what schools need help and then give them the help they need so we don't leave any child behind.

That is what is exciting about this amendment. I am so proud to be working on it with Senator DODD and Senator COLLINS.

I believe it is most appropriate, while we are in this debate about the budget and setting parameters for how we are going to spend our money—we are going to give significant tax relief, and we can most certainly do that—that we set aside the right kind of investments for our schools.

It has been said, and it was repeated to me over the weekend by one of the outstanding authors on the subject of education in the Nation, and I think it is worth repeating at this time, our schools don't just serve the public; our schools create the public.

In a nation that prides itself as being the longest living democracy in the world, a nation, while not perfect—we most certainly have many flaws and we have much to improve—that is really a model of democracy for the world, our education system becomes more than just learning facts about what was and what is. Students learn about the possibilities of what can be. They learn to think. They learn to believe in themselves. They learn to put things in perspective. An education system literally becomes a place where we create a public that is educated enough to sustain a democracy that not only brings hope to every person that lives in America but brings hope to millions of people around the world.

This is a big issue. I don't mean to overemphasize how important title I is. But it really becomes imperative that this National Government, our Federal Government, give the resources necessary to strengthen the schools that create the foundations and the bedrock of our Nation.

Again, I am proud to be part of it. I most certainly hope we have a strong vote on this amendment tonight.

I thank my distinguished colleagues from Connecticut and Maine for bringing this amendment to the floor, and I urge passage of the Dodd-Collins amendment.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. BENNETT). Who yields time?

Mr. DODD. Mr. President, I yield 10 minutes to my colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise to support the Dodd-Collins amendment.

I have had the privilege of being a legislator most of my adult life. I must admit what we are facing today is not a first. I realize that legislation and the legislative process is an imperfect activity. As a matter of fact, it was Bismarck, I believe, who was quoted as saying that making laws is something similar to making sausage. It is a process that you should never see. Today is an example of that, for here we are discussing one of the most important subjects facing this Nation: How we are going to invest additional funding in education, a subject matter that is absolutely essential to the future of this country, while at this very moment discussing and hopefully adopting the Dodd-Collins amendment that will fully fund title I over the next 10 years—title I being the funding for disadvantaged students—while at the same time we have just received the report from the other end of the U.S. Capitol Building that the House is about to take up a conference committee report on the budget resolution from which the Democratic leadership was excluded. All of the Democrats on the Budget Committee were excluded from knowing what was in that budget conference report.

We find, in fact, that what is in it is exactly the opposite of what we are debating right now—that instead of fully funding title I, title I will not be fully funded; much less, it will not even be adequately funded; much less, it will not even be increased over the next 10 years. That is an irony of all ironies.

But let's look at some other issues. We understand that the budget resolution may come here tonight for a vote, while at the same time we are discussing the education bill and voting to invest additional resources into education. What we are going to be voting on tonight is a budget resolution that has no increase in funding for education. You can't have it both ways.

We understand, although we have not been privy to this documentation yet, that not only are there not going to be the increases in title I, the subject of the amendment that we are discussing for a significant increase—indeed, the full funding of title I—but that there is going to be less funding, with no increases, for safe and educational afterschool opportunities. Head Start is not going to be significantly increased, the program to get children ready to enter kindergarten and the elementary school years. It is going to eliminate the additional funding for the training of our teachers. It is going to eliminate the additional funding for reducing class sizes. And it is going to eliminate funding for making our schools more safe.

What we have just talked about is what the American people want. They want safe schools. They want smaller classes. They want better paid teachers and better trained teachers with continuing education opportunities. They want additional opportunities for disadvantaged children. And they want afterschool programs for children.

That, in large part, is what this entire bill, S. 1, is about, which we are talking about and have amended.

Earlier today we adopted the Harkin amendment. It provided some $180 billion over the next 10 years for children with disabilities. Yet I am told that a stealth budget resolution conference report, that we are not privy to see, is coming to this Chamber for a vote tonight. That is exactly the opposite of what we are doing in the consideration of this education bill.

I know the process of legislation is not pretty, but this defies anybody's description about any kind of symmetry because there is none. It is a total irony that we would be giving, with one hand, for one of the most fundamentally important needs of this country, education, and later tonight taking away with the other hand.

Mr. President, I thank you for the opportunity to address the Senate.

Mr. DODD. Mr. President, I commend our colleague from Florida. He has made an eloquent statement. He raises a very valuable point. I appreciate his support for this amendment. This is one way to put us on record, in a bipartisan way, to say how critical increased Title I funding is to educational reform. Not only must we insist upon accountability but we must make it possible for people to demonstrate their academic achievement, which is necessary if we are going to be successful.

So I, for one, am very grateful for his support on this amendment and also for his comments in relation to the position we may find ourselves in with having supported a reauthorization but then finding it difficult under the budget agreement to have the resources actually committed.

I thank the Senator for his comments.

Mr. FRIST. Mr. President, I yield myself 5 minutes, and then I will yield the Senator from Alabama 15 minutes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, the whole issue of funding is very important. It is very clear to everybody in this Chamber that we have not sufficiently funded title I, especially if we are to focus on eliminating the achievement gap. In fact, after the bill passes, we will require our States to engage in assessments so we can make the diagnosis and understand better why, after 35 years, $150 billion, and over 200 programs, we continue to fail the disadvantaged. We have failed to eliminate or even diminish that achievement gap. In fact, we have done just the opposite. That achievement gap has increased over time. The President of the United States has pointed that out again and again. That is our charge: to have measurable results, linked with the freedom of innovation and the best of what America is all about to address this fundamental problem.

Title I is the cornerstone of the Federal involvement in focusing on the disadvantaged in this country. It is a monument, in many ways, to our commitment as a nation to boost the academic performance of disadvantaged children and to close that gap between rich and poor youngsters.

It is not because of a lack of good intentions; we have a litany of programs that are out there today—some have been funded fully and some have been inadequately funded—but we have failed the disadvantaged in this country. Title I is not accomplishing its purpose today.

We are talking a lot, in relation to the two amendments we will be voting on at 7:30, about markedly increasing the funding in title I and in the education bill. We are talking about markedly, massively increasing it with this increased authorization.

I just want to make two points. The answer is not just money. It does take an increased investment. But we absolutely have to link that increased investment to accountability and to appropriate reforms and flexibility. We have to empower parents, have local control, and accountability.

The strategy over the last 35 years of aiming dollars at programs or school districts to create just new programs for disadvantaged students simply has not worked. I do not want this body to think that just throwing money at the problem alone is going to address the issue.

Part of the problem with title I, and this whole concept of fully funding title I, is it is pretty complex. The decision was made about 30 years ago not to fund individual students. We say: Leave no child behind. People think when we are increasing this money, we are giving it to that child or to that family, or that the value goes to that child or to that family, the disadvantaged student, that the resources are aimed at that student.

In truth, that is not what was decided historically. It has been to fund the institutions where the highest percentage of those students are but by using a formula which really funds the institutions. That means even if we put in an unlimited amount of money into title I, we would still not be addressing

the issue of covering all the disadvantaged students. It is a quirk in the formula. It is a quirk of the decisions that have been made in this body.

I mention that because Senator JUDD GREGG of New Hampshire will later, next week, address this issue of portability. If we really care about disadvantaged students, shouldn't we, in some way, address every disadvantaged student? The best way to do that, conceptually and practically, would be at least to take some of these resources and attach them to the student—the disadvantaged student, the poor student, the student with the disability—and allow that student to have the resources that are most appropriate for him or her. Again, it comes back to portability. But that is not the issue tonight.

But as I see the great support for increased funding, we have to link it to accountability.

I want to introduce the concept we will be debating next week, and that is portability.

Just so people will understand, the title I formula is based on the number of low-income children living in a district, but the money goes to the school and does not go to the child. As a process, we have corrected some of it in the underlying bill. The formula favors high spending in wealthy States because part of the equation is how much you are spending right now in a State, and wealthy States or wealthier States—New York spends a lot more per capita or per student than Tennessee; that is an important part of the formula—are going to get more money through title I than a student will in Tennessee or Louisiana or many other States.

Secondly, districts with high-poverty schools are served first, and that is appropriate, but at some level there is a cutoff and, therefore, you can't serve all schools. You just don't have enough money to serve all schools that have 1 or 2 or 3 percent or 4 percent of disadvantaged students.

Third, high-poverty schools receive a priority for funding but because of the equation, per pupil, per individual disadvantaged student, they receive less than low-poverty schools. It doesn't make sense for a high-poverty school to receive less per pupil. It is because they have a higher percentage.

I mention that because the formula, the way it is configured today, means that nearly half of low-income children in America receive no assistance from title I. Therefore, when you hear that half who deserve it don't receive it, then the response is: Let's put more money into it.

I want to point out to my colleagues, you could put more money into it and more money into it. I am not arguing against that. I think we need to put more money into it, but given the formula and the way we target institutions and not the students, with unlimited money put into the system as currently configured, you will never be able to take care of all the disadvantaged students out there. The only way you can do that is looking at portability and saying that you need to attach some of these funds to the individual student.

I know we have been going back and forth.

Mr. DODD. May I yield to my colleague from Delaware who has another engagement before we actually vote? If he could have 2 minutes or 3 minutes and then go to my colleague from Alabama.

Mr. FRIST. Absolutely.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I want to say a word about accountability and relate that to resources. In the measure we will be voting on and amending later today and for the next week or so, there is a full measure of accountability. I want to mention some of the provisions.

If after 4 years a school has been unable to shed its label of a nonperforming school, a school is unable to meet its yearly progress goals, a student who is trapped in that school must be offered the chance to go to another public school. That school district must provide the transportation for that student.

Under the accountability regimen that is part of this bill, after 4 years of failure by the school, either that school must simply be reconstituted and the administration and teachers let go, or largely replaced, or the school has to be turned over to the State or another entity. There is real accountability in this legislation. There ought to be.

The question we need to consider is, Are we investing the resources that will enable that school and thousands of other schools falling short of the mark to help their kids meet the standards that have been set by the various States, particularly in reading and in math?

Our role in the Federal Government—when I spoke yesterday I talked about our role—is to level the playing field for kids who come from a disadvantaged background. Part of that role is making sure that kids are healthy, born healthy, have enough to eat and nutritious food early in their lives, and to make sure they have access to health care so that when they are old enough to go to school, they are not already hopelessly behind.

It goes beyond that. It is trying to make sure that there is adequate child care, as we push people off the welfare rolls, compel them to go to work, to make sure that those children of welfare parents have some decent child care so that they get that help when their brains are young and so much can be done to get them on the right path.

Our role extends to Head Start. We don't begin to provide the Head Start funding that we have promised to provide. We just don't meet our obligation for 3- or 4-year-olds in this country. We leave it up to the States to try to make up the difference. States such as Delaware and Ohio do, but many do not.

Until the adoption of an amendment earlier today on a voice vote for the Individuals with Disabilities Education Act, we simply didn't fund it. We met about a third of our obligation but not the rest.

As we prepare to hold schools and school districts and States accountable for the children left behind today in failing schools, we have to make the appropriate investments. Whether it is Head Start, whether it is child care, whether it is individuals with disabilities, and whether it is children who are eligible for these title I programs, they actually work. To the extent that we can come closer to funding for every three kids, to make the program available for those three kids instead of, today, one out of three, we will enable those children to be successful and enable their schools to avoid being a failure.

I thank the Senator for yielding.

Mr. DODD. Mr. President, I thank our colleague from Delaware. As a former Governor, I know many Governors believe as he does as well. I appreciate his comments and thoughts.

I ask unanimous consent that our colleague from Vermont, Senator JEFFORDS, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I also commend the Senator from Delaware. About 3 years ago, I guess it was, as Governor, he was one of the instrumental driving forces in a bill called Ed-Flex, where it, in a bipartisan way, was brought to the Senate and passed, providing education flexibility. It is a pleasure now that we can all participate in a bill in a bipartisan way, although we get partisan at times, developing those things that started several years ago.

Mr. CARPER. Mr. President, if the Senator will yield, we would not have education flexibility in all 50 States were it not for the leadership that he provided in the Senate and the support of Senators DODD and KENNEDY and others. I thank him for the great work he does.

Mr. FRIST. Mr. President, I yield to my colleague from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, it is a pleasure to be able to discuss once again some of the issues facing education. We can really do better. The Government has not, in my view, been effective enough in utilizing our resources and our laws and regulations and paperwork to produce education excellence.

Yes, we should have accountability. As the Senator from Delaware: You have to have more money then to achieve excellence, and we are going to have a lot more money this year in education. That is going to be a good start.

I suggest that that is not the only thing that drives improvement in education. Dr. Paige, our Secretary of Education, who served in the Houston school system from 1995 to 2000, took over the seventh largest system in the country with only 37 percent of the students passing the basic Texas test. He applied, when President Bush was Governor, principles that he believed in and learned as the dean of an education school, as a teacher himself, and as a coach.

He went to work to improve education in the Houston schools, and in 5 years, he reported that 73 percent of the students in Houston passed that test.

When asked recently: Didn't you get a lot more money? He said: The third year we had a proposal for more money. The voters voted it down. Test scores kept going up and things were getting better, and we came back again. And we did get more money.

Most of the progress and the framework for the progress was made before he was given any more money.

Testing, he says, is not an accountability factor so much as a part of teaching. It is a way, an ability. The process of helping children learn is to find out where they are and what they can do.

Are they up to speed? Are they behind? What level are they on? How can you improve them? We cannot leave children behind. We cannot wait until the fifth, sixth, seventh, eighth, ninth grade, and find out that children are able to do basic math and read and write. Isn't that terrible? That has been happening, we know, too much in America.

I would say the key component of testing isn't just some sort of accountability, although it does provide accountability; it is a way and a technique of identifying children that are falling behind. We don't want to leave children behind. No child should be left behind. We can intervene early, and the President wants testing from third to eighth grade to make sure they are up to speed and not falling behind, because he cares about them.

Dr. Paige said he loved those children. He loved them enough to test them and find out how they were doing and make sure they are catching up. And he wants to engage parents. You can bring them in if things aren't going well. If the whole school is doing badly, you can come in and improve it. You can challenge the leadership if they are not doing well.

So I think we have some real potential movement in education, and that is exciting. If we allow schools to have more freedom to use their education money that they are going to be receiving—and are receiving now—in ways that they believe will drive academic achievement, but we simply say find out how your children are doing, report that to the parents and teachers and the taxpayers, and if you are not doing well, let's confront that problem quickly. I think that is something that will work.

We voted today to fully fund the IDEA, the Individuals With Disability Education Act. I think that is wonderful, and it is an act that has a great goal. It has achieved some very good things. The vision of the Individuals With Disability Education Act was to make sure that children were not shunted aside, that they were allowed to participate fully in the environment in which they would be participating when they graduated, and that physically disabled children would be able to participate with other children in a classroom, that children who are blind or deaf would be able to mainstream in the classroom and benefit from it. It had some good provisions in it.

But I am here to tell you that there is a growing problem in America with this act, dealing with one just minor—really, in the scheme of things—part of it, but it has a major impact; that is, the ability of schools to discipline and deal with children who are not able to function in a classroom. It is a major source of frustration and anger, and a major factor in teachers actually quitting education. We can do something about this. We do not have to allow this to continue.

I have visited in my State approximately 25 school systems within the last year and asked them about what is going on. I have been hearing routinely about the problems they are having with the disciplinary requirements that really limit their ability to maintain order in their classrooms. The head of the Alabama Education Association and Teachers Group said he believes changes need to be implemented. He said, ''I am tired of these people cursing teachers in Alabama and nothing can be done about it.''

So I believe that the time has come to deal with it, and I want to share some of the information I have learned over the last year or so about this particular subject. Let me read this letter from a student that I think gives an indication of what we are about:

> I am a 14-year-old eighth grader. I have a problem. There is this girl that goes to school with me. She is an ADD student. She has been harassing me for no reason. She has pretty much done everything from breaking my glasses to telling me she is going to kill me. This really bothers me because she is an ADD student and the only punishment she ever gets is a slap on the hand. My principal says there is not much he can do because her status as a special ed kid. I asked what would happen if I threatened her back and he told me I would be suspended from school and forced to stay away. The most she has ever gotten is 3 days ''in school'' suspension. I think this is wrong. She scares me and I am tired of this. It has been going on for 5 months and it's really getting scary.

Doesn't that bother you? Can you hear that child saying that? She is exactly correct. That principal is able to discipline her for a threat or a violent behavior much more severely and much more effectively than he can deal with a special ed student.

Let me read this story in the Dothan Eagle, a newspaper in Alabama:

> Until recently, Tina Ham never worried about the safety of her child in Geneva County Elementary School in Hartford, AL. But since last week, school safety is all she and other parents have thought about after a third grade special ed student threatened to kill his fellow third graders. Parents say that an 11 year old boy threatened to shoot and kill two African American students and then threatened to kill the entire third grade. Parents say that the boy has a history of behavior problems and has frequent outbursts at school. He has a history of reportedly attacking other students. Sources say the boy can be heard yelling in his classroom, and that he has been seen spitting on people, walking on tables, and throwing books and desks. The threats came to light after calls were made to a State violence prevention hotline.

I would like to see more States do that, so that if a parent or teacher or student sees something they are concerned about or violence, they can make an anonymous call and perhaps something can be done about it.

> About 50 parents confronted the school board members recently to express their concern about the situation. One parent was quoted as saying that she ''didn't want to hurt the child, but I don't want him to hurt my child. I lose faith in school officials.'' One school official explained that since the child was in special education, they would have to meet Federal guidelines in disciplining the student. It is more involved than it is with general students. One school official was quoted as saying that it is a serious situation and has created quite a disruption to the day-to-day activities of the school. More intervention is needed. One parent explained, ''I want this child to be helped. I want him to receive the help he needs and my child afforded the education she deserves. If there is a problem, get him some help. I feel this child is capable of killing someone.''

This is a letter from a teacher from Troy, AL. First, let me just add, parenthetically, that as I went about and people would tell me stories, I would routinely ask them to send me a letter, put that in writing to me and I may share it one day on the floor of the U.S. Senate. I have received 50 to 75 or more letters with these kinds of examples.

This is a letter from a mid-sized rural town in Alabama:

> As a special educator of 6 years, I consider myself ''on the front lines'' of the ongoing battle that takes place on a daily basis in our Nation's schools. I strongly believe that part of the ''ammunition'' that fuels these struggles are the rights guaranteed to certain individuals by the IDEA act of 1997. The law, though well-intentioned, has become one of the single greatest obstacles that educators face in our fight to provide all children with a quality education delivered in a safe environment. There are many examples that I can offer firsthand. However, let me reiterate that I am a special educator. I have dedicated my life to helping children with special needs. It is my job to study and know the abilities and limitations of such children. I have a bachelor's degree in psychology, a masters degree in special education and a PH.D. in good ole common sense. No where in my educational process have I been taught a certain few ''disabled'' students should have a ''right'' to endanger the right to an education of all other disabled and non-disabled children. It's nonsense; it's wrong; it's dangerous; and it must be stopped. There is no telling how many instructional hours are lost by teachers in

dealing with behavior problems. In times of an increasingly competitive global society it is no wonder American students fall short. Certain children are allowed to remain in the classroom robbing the other children of hours that can never be replaced. There is no need to extend the school day. There is no need to extend the school year. If politicians would just make it possible for educators to take back the time that is lost on a daily basis to certain individuals there is no doubt we would have better educated students. It is even more frustrating when it is a special education child who knows and boasts ''they can't do anything to me'' and he is placed back in the classroom to disrupt it day after day, week after week. It is clear that IDEA '97 not only undermines the educational process it also undermines the authority of educators. In a time when our profession is being called upon to protect our children from increasingly dangerous sources our credibility is being stripped from us.

Strong letter. I am reading her words:

I am sure you have heard the saying: The teachers are scared of the principals, the principals are scared of the superintendents, the superintendents are scared of the parents, the parents are scared of the children, and the children are scared of no one. And why should they be? I have experienced the ramifications of the ''new and improved'' law first hand. I had one child attempt to assault me (he had been successful with two other teachers) He was suspended for one day. I had another child make sexual gestures to me in front of the entire class. Despite the fact that every child in my class and a majority of the children in the school knew of it, I was told by my assistant principal that nothing could be done because ''these special ed kids have rights'', I literally got in my car to leave that day, but my financial obligations to my family and my moral responsibilities to the children I had in my class kept me there.

She was going to give up the profession she had given her life to.

The particular child I spoke about frequently made vulgar comments and threats to my girls in my class on every opportunity he had when there was no adult present. Fortunately, the girls, also special ed, could talk to me about it. Unfortunately, they had to put up with it because ''nothing could be done''. I know of a learning disabled child who cut a girl in a fight. The learning disabled child and her parents then attempted to sue the school system because the child was burned when she grabbed a coffee pot to break it over the other child's head. I know of another specific incident where three children brought firearms to school. The two ''regular'' children were expelled. The special education student was back to school the following week. I fully expect that you and your colleagues in Washington will do what it takes to take our schools back from this small group of children who feel it is their right to endanger the education of every other child in school.

Listen to that:

I fully expect that you and your colleagues in Washington will do what it takes to take our schools back from this small group of children who feel it is their right to endanger the education of every other child in school. As my grandmother said, ''right is right and wrong is wrong'' and to enable this to continue is just wrong.

That is a serious commentary. The example of guns is a good one. For example, three children bring guns to school. One of them is a special ed student and the other two are not. The two that are not are expelled while the special ed student goes right back in the classroom.

What does that say about equal justice and fairness? Is there any concern that the disabilities were not the driving factor in this and independent decisions can be made by these children?

Mr. President, I had 15 minutes. I do not want to go over my time. Is anyone keeping time?

The PRESIDING OFFICER. The Senator has consumed his 15 minutes.

Mr. SESSIONS. I thank the Chair for allowing me to talk about this important subject. We have provided a historic and highly significant increase in funding for IDEA, but the Federal IDEA requirements for schools all over America have created a dual system of education and of discipline.

It is important, perhaps even more than the money we are spending, that we consider trusting those educators who have given their lives to special education children and are trained to teach them, and allowing them to handle these discipline problems in ways they think are appropriate. This would be a lot better than having Federal regulations micromanaging the schools. It is a very sore spot among every teacher in America, and if any of my colleagues do not think it is, they should just ask them. They will tell you about it. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 15 minutes on the time of the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I want to address the issues before us, the Jeffords amendment, and also the Dodd amendment.

Having listened to my colleague from Alabama, there are many children who attend our schools who need assistance. One of the more recent studies shows in our city of Boston, a quarter of the children come from homes where either substance abuse or violence is present.

Those who have looked at the profile of children from that urban area and similar urban areas understand the need for assistance for children who are facing different challenges. One is the kind of violence they have at home. Another is the medical challenges they are facing.

All of us want to find ways to deal with these issues. What we have seen in recent times is where, out of the security for other children, children are dismissed arbitrarily. Too often we see instances where they get further frustrated and resort to other types of violence, such as going home and finding a gun and acting out their anger with even greater violence.

These are complex issues and questions. Children ought to be able to learn in a climate which lends itself to progress, and we also ought to find ways of providing assistance to the children who need it.

We can address those issues, and I welcome the opportunity to participate as we move through the reauthorization of IDEA or at other times.

I want to reserve 4 minutes at the end of my 15 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. KENNEDY. Mr. President, I join in supporting the Jeffords amendment which proposes the trigger for testing. There is bipartisan support for this program.

The case has been made very eloquently by Senator JEFFORDS and others about the role of testing. I was impressed when I heard Secretary Paige and the President talk about their strong views that this should never be used as a punitive measure; that the role of these tests is to try to determine what the children know and to help the teachers develop approaches to assist those students so they can do better in their school work and in the future. That is certainly my view. I believe that is certainly the view of those who fashioned and shaped this proposal that is included in the legislation.

A reasonable question has been raised about tests, tests which are simple, easy, multiple-choice tests that too often are used to test children and too often the curriculum or the children are coached or taught to those tests. That, clearly, is not our interest.

During the course of this debate we will attempt to address the issue of the quality of the tests, the tests that take critical thinking, demonstrate an excellence in writing, tests that examine what the child should know. Obviously, the difficulty is calibrated upon a well-thought-out curriculum taught by a well-qualified teacher. That is basically what we are looking at in this legislation.

We are going to upgrade the curriculums. We are going to incorporate professional development for the teachers and thoughtful examination for the teachers themselves so they understand the challenges that remain for children and help develop the supplementary services that will be of high quality to help the children make progress in their education. That is certainly the way we want to proceed. That is the objective.

The Jeffords amendment indicates we recognize our responsibility in helping fashion, shape, and support those developments. We will give our strong support and commitment and help develop those tests. This is the essence of the Jeffords amendment. It provides resources. It has a trigger. I think this will be funding that, effectively, will be assured as we move through the process. I will certainly support it.

As we make this case in support of the Dodd amendment, we are talking about additional resources. As has been said eloquently by the Senator from Connecticut and by others, we have devised a new blueprint for accountability and responsibility on the

schools, on the States, on the teachers, and really with the students. What we are pointing out and what Senator DODD and Senator COLLINS have pointed out is, in order to give life to those dreams, we have to have the resources to make sure all of the elements of this proposal will be available to the neediest children in our society.

Twenty percent of our children live in poverty. There are 10 million who qualify for the benefits of this proposal. Only about 3.5 million are reached. Under the Dodd amendment, in the first year we will increase children reached from 3.5 million to 6.8 million. That is a dramatic increase. Over the rest of the years, we are moving for the final 3.5 million. For those who want to say we have done something important, if we support the Dodd amendment we will cover 6.8 million children at the end. This is progress. This is what we believe this whole legislation should do.

We will consider later this evening the proposal on the budget of $1.2 trillion. What we are talking about in this instance amounts to less than six-thousandths of 1 percent of that tax cut in order to be able to fund that program. Mr. President, $250 billion was approved in this body, Republicans and Democrats, to go to the conference on the budget. Virtually zero is coming back. We are asking six-thousandths of 1 percent, and with that money we are including an extra 6.8 million children.

Investing in these children makes a difference for the children, not just for the future but for our country. Although the support for title I historically has been very minimal—less than 2 percent of the money that has actually been expended—it is important to respond to those comments I heard recently on the floor about what has been happening in Texas and the fact they made such progress, allegedly, without using any more resources.

The fact is, in 1994, they spent $673 million in the Dallas independent school district. In the year 2000, they spent $985 million. That is a $312 million increase. What have been the results? The results have been a significant increase in the funding and a dramatic increase in student achievement. We are not just saying throw the money at the problem and that will answer it all. We are saying if the money is used, and used effectively, it results in student achievement. We have seen it in Dallas, as raised earlier this evening, and we have seen it in a number of other places.

I will mention a few other title I success stories.

Approximately 80 percent of the students at the Baldwin Elementary School in Boston, MA, are from low-income families, and many are recent immigrants. With a strong focus on professional development and high standards for even the neediest children, test scores soared between 1996 and 2000. In the year 2000, 96 percent of the third graders and 91 percent of the fifth graders passed the State reading test, and 60 percent of the third graders and 39 percent of the fifth graders scored proficient at advanced levels.

At Gladys Noon Spellman Elementary School in Cheverly, MD, in 1994, only 17 percent of third graders scored at or above the satisfactory level on the State test. Title I was used to implement reform. Each teacher was paired with another staff member to provide small group instruction during a 90-minute reading period in a language arts block in the mornings. All staff utilized specialists as a basis for language instruction and were provided with professional development. By 1999, 73 percent of the third graders performed at or above satisfactory on the State tests.

These are exactly the kinds of programs that have been included in this legislation and which the Collins-Dodd proposal intends to support.

The poverty rate at Burgess Elementary in Atlanta, GA, is 81 percent. Burgess Elementary staff set out to improve parent involvement in working with parents in the classroom, parent volunteer programs, academic programs for parent learning, and Saturday school programs for parents and students. Parental involvement in the school has boomed. Most days, 10 or 15 parents are in the school voluntarily. In 1995, only 29 percent performed at or above the norm on the State tests. That increased to 64 percent as of 1998, and the math scores have improved from 34 percent to 72 percent.

Parental involvement is in this bill.

We can take the other examples and take the time of the Senate to review these other examples. We have tried to find the kinds of efforts that have demonstrated success and support those in this proposal. But unless we are going to provide the investment in the children, we are not going to be able to achieve those objectives; we are not going to be able to get there. That is what this amendment is all about.

We have the blueprint. It will do the job. It will make a big difference. But we want to make sure no child is left behind. This should be a priority. We have an opportunity in a few moments to indicate our priorities, our support for this strong bipartisan effort to make sure the most needy and poorest children in this country will not be left behind.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Connecticut.

Mr. DODD. Let me first say that last evening I had the privilege of presenting an award at the Greater Boys and Girls Clubs of Washington, DC, to a very good friend of mine, Bud Selig, the Commissioner of Baseball. But another recipient of last evening's Boys and Girls Club Award was the distinguished Presiding Officer of this body, the Senator from Virginia. I will take a moment to commend my colleague—as I did last evening—for the recognition he received. I commend his work.

May I inquire of the Chair how much time remains on these amendments?

The PRESIDING OFFICER. The Senator from Connecticut controls just under 17 minutes, and the Senator from Vermont has about 11 and a half minutes.

Mr. DODD. Mr. President, I will yield myself, if I may, about 6 minutes. If the Chair will notify me when that time has expired? I know that one colleague, the Senator from New York, Mrs. CLINTON, is on her way to the floor to be heard. I want to reserve some time for her, and then will yield back some time if necessary and get to a vote.

I thank my colleagues from Delaware and Florida and others who have spoken on this amendment that I am offering on behalf of myself, Senator COLLINS, Senator JEFFORDS, Senator LANDRIEU, and others, to increase title I funding.

I want to share something with my colleagues. I have submitted for the record data about all 50 States and the number of students eligible to be served. About 10 million students would be fully served under full funding of title I. We are fully serving about 3 million of the 10 million today.

I mentioned the numbers in Alabama earlier. I know in the State of Tennessee, there are 192,000 eligible children. In Connecticut, there are about 80,000 eligible children. In Maine, 34,000. In Georgia, the number of eligible students is 300,000. In Virginia, roughly 179,000 are eligible. In each case, we are only providing about one-third of the support that we ought to be.

I think most of my colleagues who have visited schools and talked to superintendents and principals have discovered as they have gone around, title I funds really do work. There is a great deal of flexibility in how title I funds can be used, particularly in school environments. Here are some of the things I have heard from Connecticut educators about how title I funds are working.

Title I has provided the Norwalk Public Schools with 35 highly trained professionals in the district for elementary schools, almost 100 computers and printers, $17,000 for teacher workshops on best practices, parent training, and parent center computers. That is title I funds at work. It has done a great job in that community.

In Canterbury, we see improvements in reading. Without this help, I am told by the teachers there, some students would be placed in special education. We just adopted the special education full funding amendment by voice vote, and there are some concerns that too many kids will be placed into special education when in fact it may be just that they need remedial training.

The Connecticut Mastery Test Scores for title I students have continued to increase. In short, the support provided to title I students results in increased achievement, according to the Region One school district.

Norwich, CT, has hired preschool teachers under title I so the children can have the language development needed to be ready to learn, and an instructional technology coordinator to implement computer-assisted instruction.

Title I funding is responsible for the increased number of computers available for students as part of their learning in New Haven, CT. Title I funding has also made it possible for New Haven to hire additional teachers.

Title I in Ashford, CT, is an integral part of the K–8 program. Teachers tell me that title I students go on to high school—many on the honor roll, college—many on the dean's list, or the military. And, they also tell me that students come back to thank them for ''making me do my work'' and ''teaching me to respect teachers.''

My colleague from Maine and I are not suggesting this is going to create a utopia. But, we think if we can get more resources to disadvantaged kids through a program that is working, they can reach their full potential.

Obviously, a lot of other things need to happen. More parental involvement and more qualified teachers, for example. But we also know that poor districts—it could be Virginia, Connecticut, Tennessee, Maine—because of local property taxes funding most of the system, do not get the resources they need.

Because of that, as shown by the examples I have cited from my own State—and I'm sure other Members could find similar examples in their State—we believe this amendment has great merit.

With that, I will withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee, Mr. FRIST.

Mr. FRIST. Mr. President, we have 11 minutes on this side?

The PRESIDING OFFICER. A little over—11 minutes 17 seconds.

Mr. FRIST. I yield myself 11 minutes. Will the Chair notify me after 10 minutes, please?

Over the last 2 hours we have been debating really two amendments. One is the Jeffords amendment and the other is the Dodd-Collins amendment. We will be voting in about 22 minutes. We have had a good discussion on both amendments, both of which are very important. In the case of the Jeffords amendment, we will be making absolutely sure that the mandates we are placing on States in terms of assessments and districts are adequately funded, that responsibility that is being imposed from above—I should say to the benefit of the children who are out there so we can make the diagnosis and we can figure out what is not working in that failure to diminish that achievement gap which has gotten bigger and bigger, and boosting education for all children today—and the Dodd-Collins amendment, which fully funds title I funding.

I again want to make the case that money is not the answer. We have heard that again and again, that we have to have sufficient reforms. There is a fear, I think, of a lot of people, that we commit to a lot of money before we really agree on the reforms, and the reforms have to involve those elements of flexibility, of getting rid of redtape, which, as we hear again and again, really strangles and straightjackets our teachers and principals. It happens really across-the-board.

We have heard testimony in the past that, although the Federal funding is only 7 percent—the pie chart showed a little sliver of Federal funding—most of it is local and State funding. But coupled with those, 7 percent of the funding passes through this body. It comes from the taxpayer. We try to send it back down. Coupled with that is about 50 percent of the paperwork on which a teacher back in Nashville, TN, is working. Every time we do something here, we need to be very careful in those mandates that come down for those regulations. That is coupled, A, out of the funding, but, B, also adequate reform, local control, accountability, parental involvement, and choice.

It has been fascinating. I am so glad we finally got to the floor the underlying bill itself, and the agreement that has been reached in a bipartisan way, working with the administration over the last 3 weeks because it allows people to see what is in the bill, to read the language, and to react to it. It has been a positive and negative reaction.

I, for one, believe it embodies the principles outlined by President Bush, although I will say it does not go as far as I wish it to go in certain areas of innovation, freedom, putting the parents in charge, and allowing them to choose and be more actively involved in their children's education. It is very strong on the accountability and in areas such as the Straight A's aspect of it. It is very strong on flexibility, tied with accountability.

One area that falls short—and I am very hopeful that over the coming couple of weeks that we are on the bill we can address it—is involving parents and families in education.

We hear public education defined as a Federal monopoly. In truth it is a monopoly. There is a little bit of fringe innovation going on in charter schools. The underlying bill encourages that greatly, although I should also add that States like Tennessee do not have charter schools yet. It is one of a handful of States that doesn't allow charter schools. We need to work in that direction.

But the area that it falls short in is in parental involvement and choice.

Instead of trying to go through a bunch of points, I would like to quote several people. We are going to come back to it next week because there will be amendments proposed on choice, empowering parents, and portability. I have already commented that we have to be careful with the funding. We can throw unlimited funds in the current formula, and I still leave out disadvantaged children because of the way the formula is focused on institutions and not on the individual disadvantaged students—portability.

Again, Senator GREGG from New Hampshire will be introducing an amendment to that effect.

This is a quote from Virginia Walden, a single mother and executive director of D.C. Parents for School Choice.

They are actually having a rally tonight. They expected a few hundred people to be there, and thousands wanted to come to talk about choice here in the District of Columbia.

This is from the Washington Post of May 24, 1998. I think it captures the feelings well.

> I am a lifelong Democrat, and I am not sure when the Democrats decided that siding with the poor and the needy is no longer part of their platform. School choice empowers parents, and I don't care who is behind it, Democrats or Republicans.

Again, that is from an article from a couple of years ago but captures, I believe, the feeling about parental involvement.

Alveda C. King, the niece of Dr. Martin Luther King, Jr., has been an outspoken person. This is from the Wall Street Journal of September 11, 1997, which again captures the feeling. I refer again to the District of Columbia because we talked about choice.

> The District of Columbia public school system allocates $10,180 per student, the highest in the nation, according to the U.S. Department of Education. Yet, according to the Annie Casey Foundation, 80% of fourth-graders in the Washington public schools score below their grade on basic math skills. The National Assessment of Education Progress reports that 72% of Washington's fourth-graders test below ''basic proficiency'' . . . [an] appalling failure. . . .
>
> Washington's families and teachers favor a right to choose the paths of education for their families. . . . The issue is not what families choose, but rather, that they be allowed and empowered to do so.

Again, the importance of involving parents, and, again, as people look at the bill, they will conclude that we don't go far enough.

I am hopeful that we can address that to empower parents to be involved.

William Raspberry, a columnist whom our colleagues know of and read on a regular basis, in the Washington Post, March 9, 1998, says:

> Look at it from the viewpoint of those parents who grab so avidly for the chance to get their children into better schools: Should they be required to keep their children in dreadful schools in order to keep those schools from growing even worse? Should they be made to wait until we get around to improving all the public schools? . . . Surely voucher opponents cannot believe the logic of their counterargument: that if you can't save everybody—whether from a burning apartment house, a sinking ship or a dreadful school system—it's better not to save anybody at all.

We basically have a provision in the underlying bill which, if you are locked into a school that fails 1 year, and then another year, and another year, increases resources to try to bring that

school up. After the third year, that parent is empowered to go to another public school. A charter school is a public school.

But many of us would like to see that expanded to fully empower that parent to be able to take whatever money we pay as the taxpayer and allow that student to go anywhere. It is not in the underlying bill. Again, it stops short of exactly where we would like to be.

Rod Paige, Superintendent, Houston independent school district, on June 16, 1998, said:

[A limited voucher program] doesn't weaken public school systems, it strengthens public school systems.]

That is from Houston Chronicle of June 16, 1998.

One more because the story is a powerful one as we look at choice. The President's belief and my belief is that we need to maximize choice and demand strong accountability.

Urban League of Greater Miami, September 23, 1999, Christian Science Monitor:

. . .the Urban League of Greater Miami is opposing a lawsuit against Florida's new voucher program. The NAACP, on the other hand, is one of the parties seeking to stop vouchers. They allow us to have access to educational opportunity. . . .Why should a kid be forced to go to a school where it is obvious that the school is not preparing him or her to be competitive?

The underlying bill as amended today is a very powerful bill, again developed in a bipartisan way, surrounding the principles we believe in strongly and that recognize we have not done a service which our young people today deserve. Yet there are ways to improve that bill.

I am very hopeful, as we look to choice, that we can empower because it is the parent whom we should trust most with the education of our children. The bill does not go as far as I believe we can and that our children deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that the Senator from Massachusetts, Mr. KENNEDY, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. Eleven minutes, three seconds.

Mr. DODD. I will yield 10 minutes to the distinguished Senator from New York, Mrs. CLINTON.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Thank you, Mr. President.

Mr. President, I am delighted to be supporting this critical amendment, the Dodd-Collins amendment—and the Jeffords amendment—because I think that both of them offer the kind of real support in terms of resources that are needed to make good on the promise of this legislation.

I share the support my friend from Tennessee has put forth on the underlying structure of this bill, and what it offers our children and parents and teachers. But I also believe strongly that increasing accountability without also increasing and targeting resources to those children whom we know will have difficulty meeting the accountability measures is an essential and critical component to making this piece of legislation all that it should be, and hopefully fulfilling the promise of leaving no child behind.

Earlier this week, I came to the floor to talk about my concern that increasing accountability without providing resources needed to help our children meet these high standards and pass these new tests would be an empty promise.

Right now, we know from the independent, nonpartisan Congressional Research Service that in fiscal year 2001 Congress provided school districts with only one-third of the resources needed to fully serve eligible students in order to help close the achievement gap.

With these limited funds, schools are using 70 to 80 percent of their funds to pay the salaries of teachers and instructional aides, and have little left over for other critical investments, from ongoing professional development to reducing class sizes, or for providing all students eligible for title I with the extra help they need to meet high standards.

I have gone in and out of schools in our country for more than 18 years. I have spent a lot of time in the schools of New York. I know that we have the ingredients for improving education, but we have been reluctant to provide those ingredients in the quantities needed to the children who require them the most.

Yet even with our limited Federal investment, our urban school districts have actually shown gains in reading and math. Since 1992, national reading and performance has improved for 9-year-olds in our highest poverty public schools by nearly one grade level.

We know from local examples that title I is working. It will work if we target the funds where they are needed. Let me just raise one example. I could have picked many to talk about. I talked about some of them in my earlier remarks in this Chamber.

P.S. 172 in Brooklyn, NY, enrolls over 600 students. Three-quarters are Hispanic, and virtually all of them receive free or reduced-price school lunches. The school has operated a title I schoolwide program since 1993. They have combined their Federal resources from title I, Goals 2000, title 7, with State and private funds to help all students achieve high standards.

Since 1994–1995, P.S. 172's third and sixth grade reading and mathematics scores on the New York State assessments have exceeded district and city averages.

For what have they used this money? They help teachers implement a literacy-focused curriculum through intensive professional development. A master teacher and a full-time staff development specialist mentor first-year teachers. We know how important that is. If we send a first year, inexperienced teacher into an overcrowded classroom, and in some of the most difficult neighborhoods in our country, and we say: ''You are on your own; try to teach these children,'' whose first language is not English, who come to school with all kinds of difficulties; ''teach them to read, bring them up to standards,'' we are asking a whole lot from a young, inexperienced teacher.

But if we mentor that teacher and say: ''We are going to give you the help, the extra attention you need to be an effective teacher,'' we will get positive results.

Teachers share their ideas and their expectations with each other and across grade levels. They learn how to work in a crowded classroom with children who may not have the attention span that is needed. They do everything they can to really marshal those title I resources to make it possible to bring about the results that every one of us in this Chamber want.

I do not question any one of my colleagues on either side of the aisle about their commitment to improving the quality of education for our children, especially our most needy children. But what I do question is that we do not look at what has worked. We do not look at the best practices where title I is making a difference, where schools are able to take those resources and get the kind of results that we are seeking.

In 1999, the Council of Great City Schools found that fourth and eighth graders in urban schools did boost their performance. I have heard a lot of talk from Senators who say the Federal Government has not made a difference, that title I has not made a difference. I respectfully ask you to look at the evidence. Go to the schools where I go. Talk to the teachers.

In fact, 87.5 percent of the urban school districts showed reading gains in title I schools, and 83 percent showed improvements in math achievement for title I students. We also found that the percentage of title I students in urban schools below the 25th percentile has been declining.

So we do have the formula. We have a recipe. We just need to make sure of the ingredients. Setting standards, testing to see whether children meet those standards, and looking for ways to bring more resources to bear is a winning strategy.

I could not be more in favor of what my good friends, Senator DODD and Senator COLLINS, are attempting to do because if we do not focus our resources on these children, then I think our attempt to reform education is not only an empty promise but really a fraudulent one. We are saying, fine, we are going to test these children. I have used this metaphor before. It is similar

to handing out thermometers in the midst of an epidemic. We are going to find out we have a lot of sick children. We know that.

We know we have children who are under tremendous stresses in the world today, who come from very difficult and dysfunctional environments, who cannot concentrate in school. Go in and do a random test for the children's eyesight, and you will find children who cannot see well enough to see the board, and they do not get any medical care for that. Do a random dental care check, and you will find children, as I have, who have abscessed teeth, who are not concentrating or learning to read because they have too much pain which is dulling their abilities.

But we can today, with this debate, and with a bipartisan commitment with the administration, make the changes that we know will work.

So I strongly urge all of my colleagues that we put our resources where our promises are. Let's not turn our back on the evidence of what works.

I sometimes joke that Washington occasionally seems to be an evidence-free zone. We can come with stacks of evidence, with all kinds of reports; we can say, look, if we give a little more help, this title I school, using these best practices, will turn itself around. Instead, we say, it is not working because all of these children, with all of these difficulties, are not reading at grade level.

I know that if we are true to the mission that brings us to this education debate, if we are willing to support, with resources, the kind of accountability we are asking from our children, we will see results. We have seen results in the past.

I urge all of my colleagues to join in supporting this amendment which will make a tremendous difference for our children.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has approximately 2 minutes on his side; and the other side has 1 minute 40 seconds.

Mr. DODD. Mr. President, let me, again, thank our colleagues who have addressed this important subject. And I thank my colleague from New York for her eloquent statement on the value of expanding the title I program, as my colleague from Maine and I are attempting to do with this amendment. I do believe, if we have additional resources, based on the evidence—and the evidence has been significant—that we will get results.

There are those who suggest that because we have spent about $120 billion on title I over 35 years and have not fully closed the achievement gap, that it is not working. But, over the years that has represented less than 3 cents of each dollar spent on education. We are proving today, while the results certainly are not perfect, that title I is essential to improving student achievement.

We have listened to those who are working on in the districts, in the schools, who do not have Ds or Rs associated with their names or wear political labels, who tell us it is making a difference.

What better evidence could we have than relying on those who every day do the hard work of trying to improve the intellectual and learning capabilities of the 50 million children who go to public schools in America? The amendment we are offering is based on that evidence. It is based on the hard evidence that is provided by teachers and school boards and school principals and parents who have watched title I funds make a difference.

We think they can make even more of a difference, particularly, in conjunction with accountability standards. We think that providing the resources to make it possible for these children to reach the goals we all want them to reach is absolutely critical if this Elementary and Secondary Education Act of 2001 is to be worthy of our nation's children.

With that, Mr. President, I ask for the yeas and nays on the Dodd-Collins amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I yield back the time, unless my colleague from Maine wants to speak.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have been discussing the schedule and voting order with Senator DASCHLE and the managers of the legislation and how we would handle other issues. I think we have a good agreement. We need to read it carefully and make sure we understand exactly who is going to be offering the amendments.

I ask unanimous consent that if the House of Representatives has adopted and copies have been made available under the Senate rules, then the Senate proceed to the conference report to accompany the budget resolution at 10 a.m. on Monday, May 7, and the time between then and 6:30 p.m. be divided with 12 hours under the control of the minority manager and 3½ hours under the control of the majority manager.

I further ask unanimous consent that the vote occur on adoption of the conference report at 6:30 p.m. and that paragraph 4 of rule XII be waived.

As in executive session, I ask unanimous consent that immediately following the 6:30 p.m. vote on Monday, May 7, the Senate proceed to executive session to consider Calendar No. 39, the nomination of John Robert Bolton to be Under Secretary of State for Arms Control and International Security, and there be 3 hours of debate equally divided as follows: 30 minutes under control of the chairman, 30 minutes under the control of the ranking member, 60 minutes under control of Senator DORGAN, 30 minutes under the control of Senator FEINSTEIN, and 30 minutes under the control of Senator KERRY.

I further ask unanimous consent that following the use of time the Senate proceed to vote at 9:30 a.m. on Tuesday, May 8, on the confirmation of Mr. Bolton, and following the vote, the President be immediately notified of the Senate's action, the motion to reconsider be laid upon the table, and the Senate immediately resume legislative session.

Finally, I ask unanimous consent that when the Senate resumes consideration of S. 1 at 10 a.m. on Friday, the next amendment to be in order be offered by Senator CRAIG regarding ESEA funding, and the next amendment in order for the minority side of the aisle be an amendment by Senator KENNEDY, or his designee, and that any votes ordered with respect to these amendments occur in a stacked sequence after the 6:30 vote on Monday, with no second degrees in order, and 2 minutes prior to each vote for explanation.

I note that we are not sure which amendment Senator KENNEDY or the Democrats will want to go with in the morning. It could be Senator MURRAY, Senator WELLSTONE, or some other amendment. I believe you will work that out during the vote, and we will need to be notified, of course, of which one it will be and its substance.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Mr. President, reserving the right to object, I would like to ask the majority leader, is there any way that he could postpone this vote until Tuesday morning? I will not be here Monday evening. There is no way I can be here. I haven't missed a vote this year.

Mr. LOTT. If the Senator will withhold one moment, I believe Senator BYRD has a question, too, and then I will come back to the Senator in a minute.

Mr. BYRD. I thank the leader. Mr. President, I am very much opposed to lining up votes, stacking votes, and I am constrained to object to stacking votes. I don't think that is a good way to do business in the Senate. I have bitten my tongue many times and did not object. I think I should put both leaders on notice, if I may use that kind of

language, that I am going to be a little tougher to deal with when it comes to stacking votes in the future than I have been in the past. I don't think it is a good idea. I don't think Senators know what they are voting on.

We ought to be here and be ready to vote. I know the problems of both leaders. I know them well. I am not going to object in this instance, but I want to put the Senate on notice that I will have a more difficult time in the future voting for sequential amendments in a stacked order. I will not object at this time.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Reserving the right to object.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I appreciate Senator DASCHLE working with me. Senator DASCHLE and I have been talking about ways we could accommodate as many Senators as possible. It is often difficult because a lot of us have very important responsibilities. But we also have a responsibility to pass education amendments, a budget resolution, and nominations. So I will modify the unanimous consent request in this way, without at this point changing the time.

If any time on the budget resolution should be yielded back on Monday, we could go back at that point to the education bill, and at that time if there are other amendments that could be offered—and I presume there would be two—then we would get an agreement as to when they would be voted on, realizing that Senator BYRD would not want to have a stacked sequence of multiple votes. That way, we can get more education work done Monday. I encourage those who will be handling the budget to consider doing that, if at all possible. Senator DASCHLE suggested perhaps that will work.

I modify my earlier request to change the stacked votes of the two amendments that will be offered tomorrow, if votes are required, and the budget resolution at 9:30 a.m. on Tuesday.

Mr. DASCHLE. Plus the Bolton nomination.

Mr. LOTT. The Bolton nomination is already in the request at 9:30 a.m.

Mr. CONRAD. Reserving the right to object.

Mr. SHELBY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask the majority leader, to understand the steps we are going through, is the majority leader saying to the Senate we will postpone the 5:30 p.m. or 6:30 p.m. vote on Monday until Tuesday morning?

Mr. LOTT. Tuesday morning at 9:30. I believe that will cause the sacrifice of other Senators, but that is what it provides. The votes will be at 9:30 a.m. instead of 6:30 p.m. on Monday.

Mr. CONRAD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Is there an understanding on Tuesday morning there will be time for both sides to sum up before the vote on the budget?

Mr. LOTT. I believe the UC provides for 2 minutes prior to each vote for final explanation of the vote about to occur.

Mr. CONRAD. I thank the leader.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. KENNEDY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I do not intend to object. As the leader has pointed out, we have been on this bill for some time. We are prepared to move ahead tomorrow and on Monday. There are a number of amendments. We are prepared to go through Tuesday evening or Wednesday evening or Thursday evening, but I hope we will not be put in the position later on, since we have been on this bill for some time, where we have to come to a vote, denying Members the opportunity to offer their amendments.

I wanted to put that in the RECORD at this time because we are prepared to move ahead. We are glad to accommodate the leadership, but we have additional amendments that are extremely important. I want to make it very clear, I want to make sure people are going to be fairly treated. I am glad to accommodate others, but I want to make sure those who are going to offer amendments will be accommodated. There is no reason not to think so tonight. I just felt compelled to raise that.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I understand that. That is why I want us to make progress and try to make progress on Monday. Certainly the Senate should be prepared to go into the evening Tuesday, Wednesday, and Thursday, to complete this important legislation.

Senators need to cooperate with the managers and be prepared to offer amendments tomorrow, Monday afternoon, and Tuesday night because what will happen is, we are all busy and when we get to next Thursday, when we need to start wrapping it up, Senators will say: I didn't have a chance.

They have their chance. I hope both sides will talk to the managers and be prepared to offer their amendments.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. DASCHLE. Reserving the right to object. For clarification, are we limited to two amendments tomorrow?

Mr. LOTT. Under this agreement, it specifies two, but I see no reason why we cannot do more if it can be worked out.

Mr. DASCHLE. I modify the UC request that two or more amendments be offered tomorrow and that those amendments be accommodated.

Mr. LOTT. That is a good idea, Mr. President. I support that although noting we specify the first two that will be in order and we should go beyond that if at all possible.

The PRESIDING OFFICER. Is there objection to the request as further modified?

Mr. CONRAD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, two questions. One, we had people on this side ask for a little more time on Tuesday morning—we have at least 5 minutes on the budget—given the importance of it.

No. 2, is there an order to the votes on Tuesday morning?

Mr. LOTT. Mr. President, first of all, I modify the request that we extend the time on the budget to 5 minutes instead of 2 for the others. The order will be: Budget, the two education amendments, with the Craig amendment first, then Senator KENNEDY, or designee, and then the Bolton nomination.

Mr. CONRAD. Might I request that given the importance of the budget, in terms of the sequence, there be at least one amendment preceding it so people are here to actually hear the debate?

Mr. LOTT. Mr. President, let's modify it to do the Bolton vote first, and then we will go to the budget vote after that.

The PRESIDING OFFICER. Is there objection to the request as so modified?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, would you repeat that unanimous consent back to me?

(Laughter.)

Mr. LOTT. Just kidding, Mr. President. I think we all have it.

AMENDMENT NO. 361

The PRESIDING OFFICER. The Chair advises the Senate that there are 2 minutes equally divided on the Jeffords amendment.

Who yields time?

Mr. JEFFORDS. Mr. President, I yield myself 1 minute.

This is the Jeffords test trigger amendment. Under the bill, grades 3 through 8 will have to be tested by each State. The Federal Government is supposed to fund the cost of those tests. The amendment merely says if there is no money, there is no test, at least for that year.

This is to prevent the States from being placed in a position of having no money and having to administer very expensive tests.

Mr. DASCHLE. Mr. President, I ask the senior Senator from Vermont

whether he requires a rollcall vote or if he will accept a voice vote.

Mr. JEFFORDS. I want a rollcall vote.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. Do Senators yield back there time?

Mr. JEFFORDS. I yield back the remainder of my time.

Mr. KENNEDY. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 361. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 93, nays 7, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—93

Akaka	Dodd	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Edwards	Mikulski
Bennett	Ensign	Miller
Biden	Enzi	Murkowski
Bingaman	Feingold	Murray
Bond	Feinstein	Nelson (FL)
Boxer	Fitzgerald	Nelson (NE)
Breaux	Frist	Nickles
Brownback	Graham	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Landrieu	Torricelli
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wellstone
DeWine	Lincoln	Wyden

NAYS—7

Gramm	Kyl	Thurmond
Helms	Smith (NH)	
Inhofe	Thompson	

The amendment (No. 361) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 365

The PRESIDING OFFICER. There are now 2 minutes equally divided before the vote on the Dodd amendment.

Mr. DODD. Mr. President, the cosponsor of this amendment, Senator COLLINS of Maine, and I, think we made such a convincing argument during the hour and a half debate that we will yield our 2 minutes, and we ask for the immediate vote on this amendment.

The PRESIDING OFFICER. All time has been yielded. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—79

Akaka	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Edwards	Mikulski
Bennett	Ensign	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Fitzgerald	Nelson (NE)
Breaux	Graham	Reed
Burns	Grassley	Reid
Byrd	Hagel	Roberts
Campbell	Harkin	Rockefeller
Cantwell	Hatch	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Torricelli
Crapo	Landrieu	Warner
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
DeWine	Lieberman	
Dodd	Lincoln	

NAYS—21

Allard	Gramm	Nickles
Bond	Gregg	Santorum
Brownback	Helms	Smith (NH)
Bunning	Inhofe	Thomas
Craig	Kyl	Thompson
Enzi	Lott	Thurmond
Frist	Murkowski	Voinovich

The amendment (No. 365) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I ask unanimous consent that the amendment just agreed to, the Dodd-Collins amendment, be modified to conform to the Jeffords-Kennedy pending substitute amendment.

The PRESIDING OFFICER. Without objection, it so ordered.

MORNING BUSINESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL NOMINATIONS

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the events of a Judiciary Committee meeting this morning where the agenda contained the nominations of Larry Thompson to be Deputy Attorney General and Ted Olson to be Solicitor General.

Those nominations had moved through all of the procedural hurdles. The hearings were held 4 weeks ago. Many questions had been answered. In accordance with the Judiciary Committee rules, they had been held over for a week so that they were ready for action when the Judiciary Committee met today.

I will say they are very important nominations because the Attorney General of the United States is the only official requiring confirmation who has been confirmed so far. He does not have the No. 2 person, the Deputy; he does not have the No. 3 person, the Solicitor General.

The discussion in the Judiciary Committee, instead of focusing on those individuals for confirmation, the discussion concerned itself with the blue slips and the American Bar Association and many collateral matters.

Finally, when the chairman of the committee, Senator HATCH, said he was going to rule all other discussion out of order and we would proceed to a vote, at that point, the ranking Democrat said there was going to be a caucus, and the Democrats—there are very few of them there; actually three, perhaps four—started to file out of the room so that there were only nine Senators present, not enough for a quorum of 10 which is necessary to have any Senate action.

It was an unusual executive session because all nine Republicans came to the session because of the importance of acting on the Deputy Attorney General and the Solicitor General.

Then the Republicans sat and waited and waited and waited for a caucus to conclude by the Democrats. Finally, when it was apparent there would be no response, the executive session was over.

The announcement was made that if there was not an undertaking by the Democrats to have a vote on those two positions by 4 o'clock this afternoon, or after our votes which are scheduled at 4 o'clock, that the Republican members would proceed in a news conference to tell the American people exactly what had happened.

With an evenly divided, 50/50 Senate, 50 Democrats and 50 Republicans, there has been a great deal of controversy, and almost all of it has been below the surface. But today in plain public view, this controversy erupted.

The executive session of the Judiciary Committee was being televised, and it is certainly unsenatorial to have this kind of conflict.

Enough is enough, and the time has come that the American people need to know that the important business of a very important department of the Federal Government cannot be conducted because the Attorney General alone is the only official of rank who has had Senate confirmation and cannot carry on all the duties. He needs the No. 2 person, the Deputy, and he needs the No. 3 person, the Solicitor General. It is not irrelevant to note that in the executive committee session of the Judiciary Committee today, we had, in addition, the Assistant Attorney General for the Antitrust Division and the Assistant Attorney General for Legislation.

I make no special point about the failure of the committee to report those nominees out because this was

the first week they were on the agenda, and there is the established right of any member to hold over anybody for a 1-week period.

The people's business needs to be conducted, and the long discussion which ensued over the blue slip, which is an arcane procedure where Senators can have a lot to say or perhaps the controlling determination about U.S. district court judges, is not of much interest to the American people.

The input and status of the American Bar Association, while I think it is important, and I think there ought to be some input at least to district court judges, is not of great interest. I think the American people are concerned about what happens in the Department of Justice.

Again, I say, regrettably, it is not senatorial to have this kind of gridlock spill out into the public arena and into the public press. But I think the American people need to know what is happening.

Not too long ago, someone said on a controversial issue, ''Where is the outrage? Where is the outrage?'' This is one of those items where I think there may be some outrage, once America knows that there is gridlock on a great many collateral issues which do not affect at all the confirmations of the Deputy Attorney General, a very able man, Larry Thompson, or the confirmation of the Solicitor General, a very able man, Ted Olson. On that there has been no disagreement. Nobody has questioned that those people ought to be confirmed. But they are not being confirmed, and the business of the Department of Justice cannot be conducted. I think once there is focus on that, we may see a little change in the practices in the Judiciary Committee.

I yield the floor.

Mr. REID. Mr. President, there has been some talk on the floor today about things going on in the Judiciary Committee. I want to report that Senators ENSIGN and HARRY REID are setting an example of what we believe is the right way to approach judicial nominations.

Yesterday, Senator ENSIGN sent to President Bush four judicial selections. Senator ENSIGN went over these with me and asked me what I thought of the selections. When the day comes for the blue slip, I will sign in very large letters my name. These are very good people to be nominated.

James Mahan, district court judge in Las Vegas, practiced law when I was there. He is an outstanding trial lawyer. He did not only trial work but he did business law work.

Larry Hicks, who is from an excellent law firm, almost became a Federal judge. The elections came and interfered with him being a Federal judge some 7½ years ago.

You cannot find two better lawyers than James Mahan and Larry Hicks.

In addition to that, Senator ENSIGN sent two persons just as capable as the other two. Walt Cannon practiced law in Las Vegas during the same period of time as I did. He is an outstanding lawyer. He has done a tremendous amount of trial work. He has appeared before juries on numerous occasions. He knows what a courtroom is all about. He has a perfect demeanor to be a judge.

Finally, Senator ENSIGN sent the name of another district court judge by the name of Mark Gibbon who practiced law in Las Vegas at the same time as I did. He is a fine lawyer. But he has been a better judge than he was a lawyer.

I want the work of Senator ENSIGN, with my acceptance, to be the model for what we need to do with judicial nominations. Both of us agree that we should report them out very fast, get the work done as quickly as possible, and get them on the bench so they can do the work.

The blue slip has worked very well in the past. I think we should continue with the example that Senator ENSIGN and I have done in the State of Nevada.

I compliment Senator ENSIGN for the fine people he nominated to be Federal district court judges. I look forward to working with him in the future. I think we have a routine that will work well for this Congress, and hopefully thereafter.

COMMUNITY-BASED OUTPATIENT CLINICS IN THE DEPARTMENT OF VETERANS AFFAIRS

Mr. ROCKEFELLER. Mr. President, Congress transformed the landscape of health care delivery for veterans with the Veterans' Health Care Eligibility Reform Act of 1996. This law eliminated barriers to outpatient care and encouraged the Department of Veterans Affairs, VA, to offer health care services to veterans in the most clinically appropriate setting. VA responded by shifting its emphasis from hospital-based treatment to outpatient care, and in just a few years has opened more than 250 new community-based outpatient clinics.

I am enormously pleased that VA has opened community clinics in West Virginia and throughout the country. It is critical to bring health care services closer to veterans, especially as our veterans population continues to age. But it is not sufficient merely to increase the accessibility of care, we must also ensure that veterans receive the highest quality of care possible. Just as I fought to secure outpatient clinics for veterans, I will fight to ensure that these clinics are the very best that they can be.

At my request, the Democratic staff of the Senate Committee on Veterans' Affairs surveyed more than 200 VA community-based outpatient clinics nationwide to evaluate the success, capacity, and quality of care in these clinics. This self-reported information from individual clinics offers Congress and VA an opportunity to assess services provided by the various clinics, and to determine where improvements can be made to ensure that veterans receive the best possible care. The Democratic committee staff report concludes that, although all clinics reported offering primary care, services varied markedly by clinic and by geographic location.

VA's 22 regional network directors, rather than VA Headquarters, hold responsibility for activating, operating, and overseeing the community clinics. Although this provides flexibility to local VA managers, the variations in services described by clinic staff appear to result from varied management practices rather than deliberate adaptations to community needs.

For example, staffing levels did not appear to be related to the number of patients seen, and varied among clinics and among networks. Some clinics served about 5,000 patients in the first half of fiscal year 2000 with the equivalent of 15 full-time health care providers, while others served the same number of patients with only six full-time staff. Some clinics operated with fewer than two full-time employees.

Variations in staffing translated into differences in the types and levels of services provided, including basic mental health care. Less than half of the clinics surveyed offered even minimal mental health care, an issue of concern as VA continues to close its inpatient mental health care clinics. In several areas of the country, waiting times for an appointment for primary care ranged from 30 to 150 days. More than 60 percent of the community clinics lacked equipment and personnel to respond to a cardiac emergency, an issue of patient safety.

VA's lack of a consistent, nationwide system for collecting and analyzing information on health care outcomes and treatment costs is an obstacle to measuring the success of VA's outpatient clinics. VA must develop tools to allow community clinics to monitor health outcomes, so that veterans can depend on a system that not only meets their needs but continues to improve their health status. Clinics must be able to combine this information on health outcomes with accurate data about costs of treatment, so that VA can ensure the effective and efficient use of resources at all clinics.

I certainly do not expect community clinics to offer the full range of services available in a large medical center. However, it is reasonable to assume that a veteran seeking primary care through a VA outpatient clinic should be able to expect a minimum standard package of services and an acceptable quality of care, regardless of geographic location. Oversight by VA headquarters and by Congress is essential to ensuring consistency in the services and quality of care offered to veterans through community clinics.

I have forwarded a copy of this report to VA Secretary Anthony Principi, and I look forward to working with him to

make certain that veterans who turn to VA's community care clinics can expect not just access, but excellence.

I ask unanimous consent that the text of the executive summary of the Democratic committee staff report be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

STAFF REPORT ON COMMUNITY-BASED OUTPATIENT CLINICS IN THE VETERANS HEALTH ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS

(Prepared by the Democratic staff of the Committee on Veterans' Affairs, United States Senate, for Senator John D. Rockefeller IV, Ranking member, May 3, 2001)

EXECUTIVE SUMMARY

Background—In 1996, Congress broke down the barriers to developing an outpatient care network within the Department of Veterans Affairs (VA) health care system. The Veterans' Health Care Eligibility Reform Act of 1996 (Public Law 104–262) simplified eligibility rules, mandated uniformity in services offered to veterans, and eliminated legal barriers to the sharing of health care resources with other providers. In response, VA has shifted emphasis from providing hospital-based care to treating more veterans in outpatient clinics. Much of the new outpatient care is being provided in Community-Based Outpatient Clinics (CBOCs), local, often small clinics, some operated by VA staff, others managed by contractors for VA.

Responsibility for activation, operation, and oversight of CBOCs rests with VA's 22 Veterans Integrated Service Networks (VISNs) directors, contingent upon congressional approval. Between 1996 and 2001, more than 250 CBOCs have been activated, with the goal of improving access to care for many veterans. CBOC staff may treat veterans in the community clinic or refer them to the parent VA medical center for more intensive treatment and then provide followup care through the clinic.

As a consequence of the establishment of the CBOCs and other changes in response to the Eligibility Reform Act of 1996, more veterans are accessing primary care in the outpatient setting. VA estimates that the total number of annual outpatient visits (in all facilities) has increased from 26 million to 42 million in the last 5 years. Of the 229 clinics that completed surveys for this report, total outpatient visits in the first half of FY 2000 increased more than 20% over the equivalent period in FY 1999.

Democratic Staff Project—At the direction of Ranking Member John D. Rockefeller IV, the Democratic staff of the Senate Committee on Veterans' Affairs undertook an oversight project to determine whether CBOCs have fulfilled their potential to deliver high quality care to veterans in an effective and efficient manner.

To carry out this project, staff members designed a survey questionnaire intended to obtain information regarding capacity and performance directly from the clinics. This survey requested information on operation and management issues, staffing, hours of operation, patient load, availability and timeliness of care, costs, and quality of care. Staff mailed surveys directly to the 257 congressionally approved clinics for which valid mailing addresses could be obtained—rather than to VISN offices or to parent medical center directors—and compiled the results for federal FY 1999 (October 1, 1998–September 30, 1999) and the first two quarters of federal FY 2000 (October 1, 1999–March 31, 2000).

Based on this self-reported information from individual clinics, this report is intended to offer an opportunity to assess services provided by the various clinics and to determine where improvements can be made to ensure that veterans receive the best possible care.

Data Collection and Validity—VA programs frequently suffer from flawed data collection and monitoring, and outpatient care provided by CBOCs is no different. No single VA source could provide Committee staff with accessible and objective information on clinic services systemwide. Thus, the validity of the information received via the surveys must rely solely upon the precision and accuracy with which clinic staff completed the questionnaire. Despite Committee staff efforts to design unambiguous questions regarding basic operational parameters, the responses lacked uniformity. Some respondents indicated that the requested data for specific questions had never been properly collected or could not be accessed. Because a site audit of each clinic was beyond the scope of Democratic Committee staff resources, this report relies solely on self-reported data, with caveats for incomplete or subjective responses noted.

Findings and Conclusions—While community-based clinics appear to offer an appropriate avenue for increasing veterans' access to care, the unevenness of responses to the staff survey precludes any generalized conclusions on the collective success, capacity, and quality of these clinics. The available data show wide variety in every possible parameter of clinic function, both within and among networks. This variability, which suggests a significant lack of uniformity among the CBOCs, prevents easy summaries or simple solutions for possible deficits.

The flexibility inherent in the decentralized VA health care system has allowed network and medical center directors, rather than VA Headquarters, to map the course of VA's community-based outpatient care. While this arrangement does not preclude provision of excellent health care in individual clinics and does present the opportunity to tailor services to each community's demands, the significant variations in operational standards described by clinic staff appear to reflect varied management practices rather than deliberate adaptations to community needs.

Based on the variability in services—and in the vocabulary for describing operational standards—the Democratic Committee Staff can only infer that VA has not established a systemwide baseline for the minimum acceptable service levels in CBOCs. Community clinics should not be expected to offer identical or completely inclusive services. However, veterans accessing primary care through VA outpatient clinics should be able to depend upon a minimum standard package of services, regardless of geographic location, and on an acceptable level of quality of care. Also, the Congress should be able to expect an effective and efficient use of resources at all CBOCs.

Specific findings include the following: The number of FTEE (full-time employee equivalents) providing primary care varied markedly among clinics and did not appear to be linked consistently to the patient load. Staffing levels for clinics serving about 5,000 patients in the first half of FY 2000 ranged from 6 to 15 FTEE. Some clinics operated with fewer than two FTEE, raising significant concerns about the ability of such a limited staff to offer high quality health care while performing administrative tasks and monitoring quality of care.

VA does not provide the same services in all clinics. Variations in staffing translate into variations in the types and levels of services provided, including basic mental health care, both preventive and counseling services, and overall hours of service. Veterans in different regions should be able to expect a standard basic package of services.

Community clinics have not eliminated long waiting times to obtain an appointment and to receive treatment in every network in accordance with VA goals. The longest actual waiting time for an appointment exceeded 30 days in 18 networks. Only a few clinics reported having a defined policy for accepting and scheduling ''walk-ins.''

Many community clinics lacked equipment and personnel to respond to a cardiac emergency, an issue of patient safety. Each clinic should have, at minimum, an automated external defibrillator and staff trained in its use. Only 38% of clinics reported having the staff and equipment necessary in the case of a cardiac emergency.

Community clinics have not offered sufficient outpatient mental health care to compensate for the loss of VHA impatient programs. The number of VA medical facility beds available for impatient mental health care has declined steadily over the last two decades. By the end of FY 2001, VA anticipates reducing the numbers of patients treated in inpatient psychiatric care programs by 56% from the level treated in FY 1995. Outpatient mental health care programs provide a complement to (although not a substitute for) acute inpatient care, and can serve as a valuable community-based tool in a comprehensive mental health care maintenance regimen.

If outpatient programs are to play a part in maintaining systemwide capacity for mental health care treatment of veterans, they must be accessible to veterans at the sites of outpatient care. Yet, less than half of the clinics surveyed reported offering any mental health care. Of the 229 clinics that responded to the staff survey, only 50 reported that they provided PTSD treatment, and only 42 reported offering substance abuse treatment of any kind. Mental health care FTEE constituted only a small fraction of the total clinic staff in most networks.

Clinics report a range of costs per patient visit, with the average cost per visit within a network in FY 1999 ranging from $27 to $290. Calculating the cost-effectiveness of outpatient treatment requires a uniform method of calculating actual costs, which VA currently lacks. Whether the variation in patient visit costs reported by clinics represents varying staff efficiency or differences in treating ''revenue-generating'' insured patients cannot be determined from the data here.

The lack of a coherent system for collecting, monitoring, and analyzing quality of care data prevents evaluation of community care success. Almost all clinics reported that they document and monitor the quality of health care provided, but the clinic staff who completed the surveys had widely varying perceptions of what constituted a quality of care assessment. The materials presented for documenting quality of care ranged from medical checklists to patient satisfaction surveys that focused largely on aspects of patients' physical and emotional comfort in the clinic setting, rather than health care-related criteria. None documented health outcomes. Only 130 clinics reported sending any quality of care reports (regardless of content) to the parent facilities, and none received written feedback specific to that clinic from the parent facilities. The complete lack of a shared vocabulary for measuring quality of care prevented any compilation of the data. One clinic operated by a contractor responded that monitoring quality is not part of its contract.

The poor or absent measures of quality of care make the effectiveness of the care provided by the clinics, variations between contracts- and VA-operated clinics, and the effect of staffing inequities impossible to judge. VA needs a consistent set of tools that can be employed in outpatient clinics systemwide to obtain meaningful quality of care outcomes.

VICE PRESIDENT'S TORONTO SPEECH ON ENERGY POLICY

Mr. BINGAMAN. Mr. President, on Monday of this week, the Vice President gave a speech in Toronto laying out some of the broad themes of the Administration's developing energy policy.

Some of the points made by the Vice President were valid. I want to comment on some of those. I obviously realize that we are now in the middle of the debate on the Elementary and Secondary Education Act. I intend to come back to the floor either later today or next week to talk about that legislation and to commend the sponsor of it and the Democratic ranking member, Senator KENNEDY. Senator JEFFORDS and Senator KENNEDY have done yeoman's work in putting that legislation together.

I want to take the opportunity this next week to go through that in some detail. But today I wanted to take a few minutes to talk about energy issues since the Vice President is clearly focused on this and is speaking out strongly on it.

I agree with much of what the Vice President has said.

For example:

I agree with him that we face some serious long-term issues in national energy policy.

I agree with him that our response must have comprehensive and long-term focus.

I agree with him that we are very dependent on coal and nuclear power for electricity generation, and this dependence will probably continue into the future.

There are a number of other points, however, where I fear he may have overstated a particular point of view or missed the mark. Let me just cite some of those.

The Vice President seemed to equate energy conservation with rationing for something like rationing. I don't know of anyone advocating energy conservation who supports rationing. He also stated that "some groups are suggesting that government step in to force Americans to consume less energy."

That is certainly not any proposal I have made or seen here in the Congress.

What I think would be helpful to the discussion is perhaps to identify the questions that need to be asked about energy policy as we proceed over the next few weeks with consideration of the energy policies that the administration is going to recommend as well as those that have been introduced here in the Congress.

Let me cite essentially five questions and elaborate on them slightly.

The first question that I believe should be asked is whether the energy policy, the one that the Vice President is going to advocate, or that any of us here are advocating, adequately recognizes the enormous differences between energy markets in the 1970s and 1980s and those that we face today.

Back in the 1970s, there was a lot of talk about eliminating our dependency on foreign imports with increased domestic production through "Project Independence." Electricity markets were local, electricity suppliers were largely confined within State boundaries and regulated by State public utility commissions. Because a State public utility commission could guarantee its utilities fixed rates of return on their investments in infrastructure, such as large nuclear power plants, there was a market for them.

We now face a very different situation. Electricity markets have become regional, and increasingly they are beyond the ability of State public utility commissions to regulate. The nationwide electrical grid is being called upon to transmit large amounts of electrical power across enormous distances, something it was not really designed to do. State regulation of electricity has given way to a system that relies more on market forces, even though electricity markets are far from perfect ones. The old model of a protected and regulated monoply environment for utility investments in new generation has been transformed into a "wild wild west" of decentralized generation by a welter of new actors.

No where do the changes in energy markets manifest themselves more clearly than in the situation facing energy infrastructure. Attempts to blame Federal environmental regulations for the difficulties of siting and building energy infrastructure are severely off the mark. The most serious obstacle to building new energy infrastructure has been not at the Federal level, though, but at the local level and in capital markets. For example, the Vice President and other Administration officials have often observed over the last several weeks that it has been 20 years since a large refinery has been built in the United States. But the main reason has not been the Clean Air Act. It has been the low rates of return on capital in the refining sector and the refining overcapacity that existed up to a few years ago. You are not going to build a new refinery when there are already too many to serve the market, and up until recently, that was the case.

The need for energy infrastructure has provoked serious local concern and opposition. One example, which has been in the news, is the Longhorn pipeline from the Gulf Coast to El Paso, Texas. It has been tied up for nearly 5 years addressing community opposition to its construction. If the energy industry can't build pipelines in Texas, I don't think we should assume it will be any easier to build them anywhere else.

The result of these factors—economic and local—have been cited at a hearing before the Energy and Natural Resources Committee last week by a witness from ExxonMobil, who testified that our largest U.S.-based oil company does not believe that any new refineries will be built in the United States. He predicted that the only additions to U.S. refining capacity would come from expansions at existing facilities. Expanding that capacity will not be easy regardless of federal policies. Most refineries are located in heavily industrialized areas with significant environmental issues regulated at the State and local levels of government.

Instead of looking for ways to blame the Federal Government for an energy infrastructure problem which has not been of the Federal Government's making, I think we need to look for creative new ways to respond to the challenges of working with State and local communities on these siting issues. Effective mechanisms for greater regional cooperation are critical to ensure adequate infrastructure investments are made on a timely basis to meet energy demand. Coordinated regional efforts on energy infrastructure can reduce the impact on communities by optimizing infrastructure use and reducing price volatility.

If the Vice President's energy policy recognizes this complex reality and starts to address it, then it will be helping the country to make a positive step forward. If the answer from the Vice President's study is simply to try to pit energy needs against environmental protection, then we won't be looking at a comprehensive and balanced energy policy.

The second question to ask of the Vice President's comments this week is how this so-called energy policy that we are envisioning will connect planned actions related to energy with climate change policy.

Science has been developed showing fairly clearly today that there is a connection between human activity and climate change. We may not be able to prove the exact amount of human causation in the global warming that we see, or to model its precise regional impacts. But we know enough now to realize that our ever-increasing emissions of greenhouse gases pose substantial risks both to critical and fragile ecosystems around the world and to future generations of humans. The world will have to deal with the issue, and the United States must be a leading contributor to negotiations on any international framework to address global warming. A leadership role for the United States is required not only because we are a major emitter of greenhouse gases, but also because we have the leading capability to harness science and technology both to understand climate change and to respond to it.

We, as a country, need to have a climate change policy. We need to put in

place some actions to deal with this new science. One part of the positive contributions that the United States has made to international climate change negotiations has been our success in getting flexible, market-based mechanisms and recognition of carbon sinks incorporated into the developing international framework. U.S. industry, particularly in the energy sector, has indicated that these provisions are essential to holding down the eventual energy costs of responding to human-induced climate change. But without the United States as an active insider in the international negotiations, these important flexibility mechanisms will be lost. The decision of the new Bush administration to back away from the Kyoto protocol may doom the flexibility that we have won in the discussions to date. It could also spur other countries to erect new obstacles to American firms wishing to expand into international energy markets, in retaliation for the President's retreat on CO_2.

While negotiations on an international framework to address global warming continue for the next several years, our domestic industry will have to make significant investment decisions on new energy infrastructure. We have no domestic framework on greenhouse gas emissions that would guide or even inform these investment decisions. Addressing these issues up front would reduce business costs and risks. Maintaining our present course would increase the probability of future economic losses and waste in the energy sector.

For these reasons, we need to integrate energy policy and climate change policy. They are inextricably linked—to do one is, by implication, to do the other. U.S. industry deserves to know how we are going to address greenhouse gas emissions before it invests billions of dollars in new energy infrastructure. If the Vice President's answer is that we will do energy policy now and worry about climate change later, then we don't have a truly comprehensive and balanced energy policy.

Mr. President, I do not pretend to have the exact answer for what our global climate change policy should be, but I know we need to have one. We cannot continue to look the other way and pretend that the issue does not exist. So I look forward to seeing what the Vice President recommends in his energy recommendations and how it relates to this climate change issue.

The third question is to ask what kind of balance is being made between increasing production and increasing efficiency. I know there has been some rhetoric in that connection to the effect there needs to be an adequate balance. I do not believe any of the concrete proposals I have seen coming out of the administration or suggested by people from the administration have in them the necessary balance. We know that the Vice President is all for increasing energy supplies, and most people would agree that increasing supply is one essential part of the big national energy picture. The Senate Democratic energy bill contains numerous measures to improve energy supplies across the entire spectrum—coal, oil and gas, renewables, and nuclear. The other essential part of the energy picture, though, is increasing efficiency. If we use energy more wisely to attain the same amount of economic output, we improve our economy and reduce the burden that energy infrastructure imposes on local communities.

Since the 1970s, new technologies have increased our nation's productivity in many ways, including our use of energy. Technologies that increase energy efficiency have allowed the U.S. economy today, compared to 20 years ago, to produce the same output with 30 percent less energy. Even greater savings are possible in the future, with appropriate federal leadership.

Consumers really benefit when they get goods and services at cheaper prices because less energy is required to produce them. With that in mind, I was surprised and saddened by the decision at the Department of Energy last month to roll back the proposed efficiency standard for new central air conditioning systems. The rationale given was that the higher standard wasn't cost effective. But the cost-benefit analysis Department of Energy relied upon used average electricity costs from 5 years ago. It is surprising to see the administration, on the one hand, insist that this summer's high electricity costs in the West be passed along to consumers to control peak loads, while in the next breath state that its efficiency policies should be based on the lower electricity costs that prevailed 5 years ago in this country. And if the administration is really worried about the need to build 1300–1900 new power plants, it should realize that its rollback of air-conditioning standards just added 43 more big power plants to whatever number will be needed by 2020.

Another area of energy efficiency that cannot be ignored is vehicle fuel efficiency. The Vice President has alluded to the dangers of our increasing dependence on imported oil. Yet that dependence is directly related to our increasing consumption of oil in the transportation sector. The only realistic solution to this problem is to couple efforts to increase domestic production with a concerted effort to reduce fuel use by light duty vehicles—cars, trucks and SUV's. Incentives for hybrid and high efficiency vehicles could be part of a more comprehensive program, but are not adequate by themselves. The Federal fleet, through its choice of vehicles, should be a leader in reversing this trend. All regulatory and non-regulatory mechanisms should be employed to stem demand growth to a level we can management as a society.

If the Vice President's energy policy does not take a fresh look at the need to improve energy efficiency through forward-looking standards, then it is probably not a truly balanced and comprehensive energy strategy.

A fourth question is to ask of the Vice President's energy policy—and all of these policies floating around in Congress—is whether one of the greatest national resources we have in Ameria—that is, our capacity for scientific and technological innovation—is being stimulated and engaged to solve our energy problems. So far, the administration, in my view, at least, has failed badly on this score. The 2002 research and development budget proposed by the President for the Department of Energy contains severe cuts for a variety of advanced energy technologies, even in areas, like nuclear energy research, that one would expect would be favored by this administration. There has never been a time when increased investments in energy research and development were more needed, or showed more promise for solving some of our problems. I hope very much that will be changed in the deliberations that result in the task force's report. We need to be increasing these investments across the board—in coal, in nuclear, in renewables, in oil and gas, in energy efficiency, and in the basic science that underpins all of those. If the Vice President's energy policy does not dramatically turn around the cuts being proposed for both energy R&D at the Department of Energy, and find additional funds from outside the Department, then we don't have a truly comprehensive and balanced energy strategy.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be yielded an additional 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

A final question I believe we all need to ask is whether the proposals address the pressing energy crises that are brewing for this summer and are going to be on the front page of every newspaper.

California and western electricity issues: Problems in the West and projected troubles in other parts of the country—one example, of course, is New York City itself; where shortages are forecast for the summer, meaning that pressure to do something about electricity is mounting. As the market imperfections in California become more and more apparent, a pro-active role for the Federal Energy Regulatory Commission is increasingly indicated. I do believe we need to have action from the Federal Energy Regulatory Commission in the very near future. We should have acted before now to deal with those very real crisis situations around the country. To date, the response of FERC has been a disappointment. More effort has seemed to be expended on blaming California elected officials for their problems than on effectively policing the market. The Federal Government must play a key role

in promoting reliable electricity supplies through FERC and by ensuring wholesale markets are transparent and functioning efficiently.

A second immediate issue that needs attention is the LIHEAP program, the Low Income Home Energy Assistance Program. High energy prices this past winter have left many working families unable to pay their heating bills and are having their utility service cutoff. The Senate has acted to increase the authorization for the Low Income Home Energy Assistance Program but the President's support and action is needed if we are going to put additional funds in this program. I hope it will be addressed by the Vice President's task force. Summer cooling bills will be arriving soon and the states have no funds left to help with those costs either.

Fuel specifications is another issue. The President could act immediately to help sort out the welter of gasoline specifications around the country that has balkanized the fuel market and rendered regions highly vulnerable to shortages of gasoline if a piece of the local energy infrastructure goes down. We saw gasoline price spikes in the Midwest and West Coast last summer because of this problem, and we will likely have similar problems again this summer.

If the Vice President's answer on these specific, pressing needs is that nothing much can be done about these problems this year, and that folks who are unfortunate enough to live in California, or folks who live in a region that is experiencing a gasoline price spike due to lack of availability of the right blend of gasoline, or working class families who cannot pay the high electricity bills for air conditioning, will just have to do without while we are working on some long-term energy fix, then we don't have a truly comprehensive and balanced energy strategy.

In conclusion, there has been a lot of interaction within the administration, perhaps, on this issue, but there has not been interaction between the administration and the Congress, at least that I am aware of, on what the Vice President is getting ready to recommend. By contrast, the Senate is now engaged in discussing an education bill where we did have very intense bipartisan discussions with the administration and among ourselves. Energy, in my view, is important in this country, just as education is important. There are real opportunities for bipartisan progress on the issue of energy as well as in the area of education.

I hope the administration sees this and puts away some of the hot button issues that are not likely to command support in the Senate, such as the opening of ANWR. They should put those away in favor of proposals that will command broad bipartisan support.

In the end, that may be the strongest indication of whether the administration wants to pursue a consensus bipartisan energy policy which will serve the interests of the country.

COMMEMORATION OF TAX FREEDOM DAY

Mr. GRASSLEY. Mr. President, I rise today to apprise the Senate of a very distressing development. Today marks Tax Freedom Day, the day when Americans will finally have earned enough money to pay off their tax bills for the year.

This year's Tax Freedom Day marks the longest period Americans have ever had to work to pay their taxes. It is astounding that every hour worked since the beginning of this year will go solely to pay America's tax bills.

The average American is shouldering a heavier tax burden than ever before. This year, Americans will work longer to pay for Government than they will to pay for food, clothing and shelter combined.

Congress has got to put a stop to this. I am pleased to report that Senator BAUCUS and I, and the other members of the Senate Finance Committee, are right now working on a tax cut bill that will provide a real reduction in income taxes. With $1.35 trillion, we can now produce income tax cuts large enough that working Americans will actually see a difference in their paychecks.

So what has caused the lengthiest Tax Freedom Day in our Nation's history? It was the Federal individual income tax increases enacted in 1993. And here is the proof.

The Tax Foundation is the nonpartisan, nonprofit policy group that calculated today's Tax Freedom Day. The Tax Foundation's analysis shows that the Federal tax burden grew by 14 days' pay between 1992 and 2001. That means that because of the 1993 tax increases, Americans now have to work an additional 2 weeks just to meet their Federal tax burden. That is equal to some Americans' vacation pay.

In stark contrast, the Tax Foundation says State and local tax burdens remained virtually unchanged during this period. So the culprit in creating the longest Tax Freedom Day in history is the Federal Government.

The biggest source of Federal revenue is the individual income tax. Over the past decade Federal tax collection levels for payroll taxes, corporate taxes, and all other taxes have been relatively stable. Collections of individual income taxes, however, have soared.

In 1992, tax collections from individual income taxes were 7.7 percent of our gross domestic product. That percentage has risen steadily each year, and as of the year 2000, it was an astounding 10.2 percent of GDP. Individual income taxes now take up the largest share of GDP in history. Even during World War II, collections from individuals were 9.4 percent of GDP, nearly a full percentage point below the current level.

The source of the current and projected tax surpluses is from the huge runups in individual tax collections. And that has given us the lengthiest Tax Freedom Day in our Nation's history.

Yesterday, the members of the Finance Committee met informally to discuss what everyone thinks should be in the tax cut package. I think there was a nearly unanimous agreement that individual income tax rates are simply too high.

Senator BAUCUS and I are working hard to put together a bipartisan tax cut package. I ask Members of the Senate and the American public to support our efforts. Our quest for real tax rate reduction is sincere and urgent. With an uncertain economy and excessive Federal tax collections, America needs action and it needs it now. American taxpayers expect us to deliver tax relief and we must not fail them.

As I stand here today, I pledge to you that as chairman of the Senate Finance Committee, I will do everything in my power to ensure that next year's Tax Freedom Day will not mark the longest period Americans have to work to pay their taxes. And I am confident that my Democratic colleagues will join us in supporting this goal.

SCHOOL VIOLENCE PREVENTION HOT LINE

Mr. LEVIN. Mr. President, the Michigan State Police recently introduced a 24-hour school violence prevention hot line to allow students, parents, teachers and others, to report school violence or suspicious criminal conduct to the State Police. The hot line, 800–815 TIPS, offers young people and others in Michigan a way to reach out to law enforcement anonymously, if desired, and in a non-confrontational environment.

In the past month, students and citizens from across the state have given the State Police approximately 60 tips, including tips about bullying, harassment, sexual assault, as well as tips about knives and guns in school. The State Police then passed these tips on to the appropriate local law enforcement agency for investigation. Michigan is the thirteenth state to implement such a hotline and we hope it will help keep our schools safer for students and teachers.

We also hope that other preventative measures will be taken to keep our schools safer, such as legislative initiatives to keep firearms out of the hands of juveniles and prohibited persons. Together, we can work toward preventing the disturbing number of violent acts in school that we have seen far too much of in the last few years.

U.S.-JORDAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, I rise today in the Senate to offer a way out of the stalemate we have on trade policy.

The trade agenda facing our nation is a long and important one: Approval of the U.S.-Jordan Free Trade Agreement and the U.S.-Vietnam Bilateral Trade Agreement; renewal of the Generalized System of Preferences and the Andean Trade Preferences Act; a fully revised and improved Trade Adjustment Assistance program; completion of negotiations on bilateral free trade agreements with Chile and Singapore; active negotiations on the Free Trade Area of the Americas.

But, despite a strong feeling in the Congress that we need to continue the aggressive pursuit of trade liberalization and market opening around the world, we have made no progress at all this year. There are several hold-ups.

First, we need to determine how to deal with the issues of trade-related environmental standards and internationally recognized core labor principles in trade agreements. Second, we need to reach agreement on America's trade priorities and our trade negotiating objectives. And, third, we have to determine how we will deal with the numerous elements of the trade agenda.

The key to breaking loose this logjam and allowing us to start to build a consensus on trade lies with the U.S.-Jordan Free Trade Agreement. This was negotiated during the Clinton Administration, although it was completed too late to secure Congressional action last year. This agreement has wide support in the Congress, in the Administration, and throughout the country. I am confident that, once formally endorsed by the Administration, it will sail through easily. Yet the delay in approval continues because it has been linked to the rest of the trade agenda and the unresolved issues I mentioned a moment ago.

We need to delink Jordan from the rest of our trade agenda. It is a good, solid trade agreement. Jordan is a key partner of the United States in the search for peace in the Middle East. This agreement will strengthen our relationship with Jordan, demonstrate how important we considered King Hussein, and now consider King Abdullah, in the peace process, and complete the set of free trade agreements that already apply to Israel and the Palestinian Authority.

Majority Leader LOTT summarized this eloquently when he wrote to President Bush:

> Jordan has been a reliable partner of the United States and has played an important role in America's efforts to achieve a lasting peace in the Middle East. The United States-Jordan Free Trade Agreement is an important and timely symbol of this critical relationship.

This agreement serves America's vital national interest.

The Jordan FTA contains provisions in which both our countries agree not to relax environmental or labor standards in order to enhance competitiveness. For the first time, these provisions are in the main body of the agreement. Although there has been some controversy about that, I think the issue has been put to rest, especially after King Abdullah explained to us during his recent visit about how difficult it would be to open up the text of the agreement.

The controversy over the Jordan FTA now centers around one phrase: If there is no resolution at the end of the dispute settlement process, ''the affected Party shall be entitled to take any appropriate and commensurate measure.'' This includes trade sanctions, and therein lies the problem. Many Democrats welcome this because it puts enforcement of trade-related labor and environmental commitments on a par with other trade commitments. Many Republicans object because they believe trade sanctions should not be used in the case of labor or environmental disputes.

So, let me make my proposal.

The ''appropriate and commensurate'' phrase is flexible enough to encompass a variety of measures, including trade sanctions, fines, cuts in aid programs, and a variety of other options. Let's move ahead with the Jordan FTA as negotiated. We Democrats will note that the Jordan FTA is a breakthrough in how it addresses labor and environment. We will also note that ''appropriate and commensurate measure'' includes trade sanctions, without requiring them. After all, in our trade negotiations throughout the world, sanctions, of any kind, are the very last resort, and we work hard to avoid their imposition. And remember that trade sanctions in the context of the Jordan FTA simply means removing some of the concessions we make in the agreement itself.

Across the aisle, Republicans can also correctly note that ''appropriate and commensurate measure'' does not require trade sanctions in the case of a dispute over trade-related labor or environmental issues. The President will decide what is an ''appropriate and commensurate measure.''

In other words, we will agree to take enforcement measures appropriate to the circumstances. This is not the best outcome, but it is a way to get past the current paralysis in trade policy. It would allow us to move forward on an agreement of strategic importance to the United States. It would demonstrate flexible and creative thinking on both sides. It would move us to work toward a compromise that can garner broad bipartisan support.

And, let's be honest with ourselves. Given the very small volume of trade with Jordan, the very large strategic significance of our relationship with Jordan, and the importance Jordanians place on this free trade agreement, it is highly unlikely that any Administration, Democrat or Republican, present or future, will be forced to impose trade sanctions on Jordan. Disputes are likely to be settled amicably, as they have been with Israel which has a similar free trade agreement with the United States.

Several weeks ago, I introduced legislation to implement the U.S.-Jordan Free Trade Agreement. The bill is a simple one. It merely gives the President authority to reduce tariffs with Jordan, outlines rules-of-origin requirements, deals with safeguards provisions, and eases non-immigrant visa requirements for Jordanian business people. It does not even mention ''appropriate and commensurate measures.'' U.S. law would not be changed at all by this phrase.

Let's pass this bill. Let's create the U.S.-Jordan free trade area. And let's get on with the business of working together to develop a consensus on how we move forward on a lengthy and important national trade agenda.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

Today, I would like to detail a heinous crime that occurred August 24, 2000 in Allentown, PA. A 24-year-old fatally shot a 15-year-old youth attending a party in his home after the teen touched him on the arm and other partygoers suggested the teen was gay. According to the Allentown Morning Call, a witness said that the alleged perpetrator, Michael Gambler, retrieved a shotgun and shot Kevin Kleppinger in the forehead. Friends say that Kleppinger was not gay and had been rubbing the perpetrator's arm because he thought he had accidentally spit on it. Other teens in the apartment began teasing the victim that he might be gay before the perpetrator shot him.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

CONGRATULATING POLAND ON THE 210TH ANNIVERSARY OF THE POLISH CONSTITUTION

Mr. DURBIN. Mr. President, today marks the 210th anniversary of the Polish Third of May Constitution, which was the first democratic constitution in Europe and the second one in world's history after the American Constitution was ratified in 1788. On May 3, 1791 the Polish Parliament followed the example of the United States and adopted its own written and modern supreme law of the land.

The Constitution signed by the Polish King and the Lithuanian Grand Duke was originally known as the Bill

on Government and it extended equal protection of the law to every person, including peasants, as well as establishing separation of powers. Although the Constitution formally lasted only for few years until the Third Partition of Poland, today the legacy of this historic document is still alive. It tells us about the grand Polish tradition of democracy, which was crafted in the Polish-Lithuanian Commonwealth in the 18th century, evolved in the Polish Republic after regaining independence in 1917, and was reconfirmed in the early 1990's following the end of the cold war.

Poland's has been a success story in its smooth transition to a liberal democracy with a free market economy. I was proud to cast my vote in the Senate in favor of the enlargement of the North Atlantic Treaty Organization, NATO, to include Poland, Hungary and the Czech Republic. Poland was admitted to NATO on March 12, 1999, and has become a close ally and friend of the United States, which is a home to more than 9 million people of Polish descent. Furthermore, Poland is one of the frontrunners seeking membership in the European Union.

We must continue our support for Poland's successful integration in the Western structures of security and economic cooperation, which promote peace, stability and prosperity across all of Europe. I firmly believe that both America and Poland share the same goal of continuing to enlarge NATO by admitting the Baltic countries into NATO in order to enhance the overall tranquility in the region.

As a Senator of the State of Illinois, where the Polish community is the second largest in the country, I hope my colleagues in the Senate will join me in congratulating Poland on its remarkable celebration of anniversary of their democratic constitution. I also believe that they will join me in providing their support to Poland's continuing endeavor to contribute to the security and stability of the entire European continent.

The Third May Constitution two centuries ago signaled to the world that Poland entered the family of emerging Western democratic states. Our effort today should be to make sure that Poland's centuries-long commitment to democracy culminates in Poland fulfilling its promise as a full-fledged member of the Western democratic world and ceasing to be discounted as part of Europe's ''grey zone.''

COLUMBIA BASIN SALMON RECOVERY PLAN

Mr. CRAPO. Mr. President, a priceless national treasure in the Pacific Northwest is in dire straits. Icons of our region, wild salmon and steelhead, teeter on the brink of extinction. These anadromous fish are one of the best examples of how nature works her magic and selects the best and the brightest for future generations. This heritage must not end. Our generation has the responsibility to assure that these fish live on and enrich our lives in the future.

Despite several decades of work and a cost to taxpayers and electricity ratepayers of an estimated $3 billion, Pacific Northwest salmon and steelhead have continued to decline to the point where they may soon become extinct. We must reverse this trend. We must not allow extinction to happen and must proceed quickly with an aggressive consensus plan of action that returns them to sustainable and fishable populations. I believe we can do so in a manner that honors the principles of state water sovereignty, states' rights, and private property rights.

The economy of the Pacific Northwest is mainly vibrant and strong with some important exceptions, particularly in some more rural areas that depend on agriculture and natural resource industries. We must keep our Northwest economy strong and spread its strength throughout the entire region. This economy provides jobs for families and tax revenue to support important work, particularly the education of our children. Now, we face high energy costs and drought. Therefore, it is imperative that we make prudent choices now that will assure our future and quality of life in the Pacific Northwest.

There are volumes of scientific research and theories on what needs to be done to bring these fish back from the brink of extinction. For years, I have studied documents, discussed science with experts and advocates, held hearings to learn about and publicize policy choices, and today I am here to lay out a funding proposal to make our efforts for salmon and steelhead recovery far more aggressive, comprehensive, and coordinated than they have ever been.

The cost of restoring these fish has largely been borne by the citizens of the Northwest through the electricity rates they pay that fund the Northwest Power Planning Council's Fish and Wildlife Program. But because this is a national issue and because recovering the species is required by the Endangered Species Act, the Federal Government has an obligation to shoulder a significant portion of the financial responsibility for doing so.

I will not support flow augmentation other than that agreed to by the State of Idaho, if any. The extensive political opposition to breaching the four lower Snake dams means that such a recommendation would put the region into economic and political gridlock in such a way that would prohibit further efforts to take achievable steps to save the salmon and steelhead.

We now have a window of time, possibly up to 10 years, to exercise options and take steps toward recovering the fish before evaluation of dam breaching is then brought back to the table for further consideration. That means we have a brief opportunity to do things right. Otherwise, if we continue to spin our wheels or make wrong decisions about how to approach recovery, we will, in 5, 6, or 8 years be once again facing the difficult question of whether the region must breach the dams to save the fish.

Even though we have not yet mastered the entire process required to recover these fish, it is very obvious that we do have an enormous amount of good information and a very long list of measures that we can do, right now. The problem is that we have done only part of what we can do. My proposal will commit the region and the Federal Government to take immediate coordinated and aggressive action that is known to benefit the fish while providing an agreed-upon mechanism for monitoring and subsequent adjustments.

Specifically, I am recommending:

Corps of Engineers, $159.8 million, additional funding for their Columbia River Fish Mitigation program. This program primarily funds the construction of fish passage systems and also provides dollars for the Corps to contract with the National Marine Fisheries Service to do anadromous fish research and monitoring.

An increase for operations and maintenance funding (O&M), which will also provide the money needed to barge all fish, rather than trucking salmon around the dams. O&M funding is essential to keeping fish passage systems operable and mitigation programs running. Furthermore, we must study the potential benefit to modernizing the region's flood control management.

Money for restoring estuary habitat in the Lower Columbia River and Tillamook Bay Estuaries. We have heard from all of the interests that we'll get a big bang for the buck for salmon and steelhead by restoring estuary habitat.

National Marine Fisheries Service, $243.5 million, additional funding for the operations and maintenance of fish hatcheries. In the past, our hatcheries have provided sport fishing opportunity, but have not yet benefitted wild salmon and steelhead recovery. We need to reform our hatcheries to produce fish that are not susceptible to disease and predation, and support recovery goals.

An increase for screening irrigation diversions. If we are to recover salmon and steelhead, we must keep juveniles in the river and out of irrigation systems. These diversion screens can cost up to $1 million apiece, which make them unaffordable to communities, irrigation districts, and individual farmers.

Full funding for the Coastal Salmon Recovery Fund. It is critical to the states of Idaho, Alaska, Washington, Oregon, and California as well as the Tribes that the federal government provide funding to help meet federal Endangered Species Act requirements for salmon and steelhead.

Bureau of Reclamation, $25.0 million, funding to provide for the purchase of

one more year of Idaho State-authorized flow augmentation, which is the 427,000 acre feet of water that is used to facilitate salmon and steelhead migration, plus $10 million to fund a water bank to store water for the purposes of fish passage and temperature reduction during low flow periods. The Bureau of Reclamation would also receive money to implement offsite mitigation measures called for in the Biological Opinion.

U.S. Fish and Wildlife Service, $56.9 million, increases for habitat improvements, habitat conservation planning, landowner assistance, Section 7 consultation, and hatchery retrofits.

In addition to the National Marine Fisheries Service, the Fish and Wildlife Service has major responsibilities for screening irrigation diversions. Its screening program provides help to individual landowners in the form of technical assistance and money to pay for fish screens over irrigation diversions.

There are many agencies with responsibilities for implementing salmon and steelhead recovery measures, and, frankly, these are just some of them. I also recommend funds for other agencies such as the Natural Resource Conservation Service and the Environmental Protection Agency to implement their piece of the anadromous fish restoration program.

This adds up to a grand total of $688.2 million.

I anticipate that regional interests will examine the details of my proposal and will offer suggestions to improve this appropriations package. I encourage that discussion and look forward to the input that others will offer. There are processes currently underway in the region that could well result in changes to this proposal.

It is my hope and expectation that this funding will change what has been a decades-long, torturous, and expensive process into a success that will make the Pacific Northwest a role model for how to recover endangered species. I look forward to working with colleagues in the House and Senate to provide funds to support a successful Columbia Basin Salmon and Steelhead Recovery Plan.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 2, 2001, the Federal debt stood at $5,655,955,997,201.31, Five trillion, six hundred fifty-five billion, nine hundred fifty-five million, nine hundred ninety-seven thousand, two hundred one dollar and thirty-one cents.

One year ago, May 2, 2000, the Federal debt stood at $5,669,551,000,000, Five trillion, six hundred sixty-nine billion, five hundred fifty-one million.

Five years ago, May 2, 1996, the Federal debt stood at $5,100,093,000,000, Five trillion, one hundred billion, ninety-three million.

Ten years ago, May 2, 1991, the Federal debt stood at $3,438,851,000,000, Three trillion, four hundred thirty-eight billion, eight hundred fifty-one million.

Fifteen years ago, May 2, 1986, the Federal debt stood at $2,015,491,000,000, Two trillion, fifteen billion, four hundred ninety-one million, which reflects a debt increase of more than $3.5 trillion, $3,640,464,997,201.31, Three trillion, six hundred forty billion, four hundred sixty-four million, nine hundred ninety-seven thousand, two hundred one dollar and thirty-one cents during the past 15 years.

ADDITIONAL STATEMENTS

THE QUEST PROGRAM

• Mr. CORZINE. Mr. President, today, there is much focus on the problems in our schools but, I would like to bring to your attention the students and citizens in the great State of New Jersey who are doing something to make our schools a better place to learn and grow. The Quest Program is an amazing group of 11- and 12-year-olds who are positively affecting the student body and facilities at Dr. John Howard Jr. Unique School of Excellence in East Orange, NJ.

Noting the rise of suspensions and other discipline issues in their school, a group of 13 fourth and fifth graders gathered under the leadership of their teacher, Ms. Christine McAdams, and created the Quest Program. They developed this program to find ways to improve student behavior. Volunteering more than 400 hours toward the goal of bettering the student body, these young people established 14 enrichment programs through which students could positively direct their youthful energy and exuberance. These exceptional students even successfully bought property to expand their school playground by researching grant and funding opportunities in their community.

The Quest Program placed first in New Jersey in the junior division of the Community Problem Solving Component of the International Future Problem Solving Program. The Dr. John Howard Community Problem Solving Team will represent New Jersey at the International Competition in Athens, Georgia this June.

These 13 students are an excellent example of the creativity and dedication of which America's young people are capable. Joshua Baily, Sabre Burroughs, Teri Jones, Orion Khan, Kamiah Mitchell, Shanteea Moore, Chetachi Odelugo, Cory Patterson, Rubi Ramirez, Katiria Torres, Reymond Torres, John Wilson, and Minette Wilson are a credit to their families, their school, and the State of New Jersey.

As a Senator who believes very strongly in the importance of education, I am exceptionally proud of these prodigious young people and their decision to spend their time and energy making their school a better place to learn. It is my hope that you will join me in wishing them good luck in June and in all of their future endeavors.•

SUPPORTING FARMER EDUCATION

• Mr. GRASSLEY. Mr. President, I rise today to commend Farmland Industries for their leadership in educating farmers on the importance of international trade, through the program ''Support Trade, for Farmers, For Farmland, For You.'' I also congratulate them for receiving the 2001 National Agri-Marketing Association's award for Best of Show.

I ask that the letter of congratulations I sent to Farmland Industries be printed in the RECORD.

The letter follows.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, DC, May 2, 2001.

Mr. ROBERT HONSE,
President & CEO, Farmland Industries, Inc., Kansas City, MO.

I recently read that Farmland's trade education program, ''Support Trade, For Farmers, For Farmland, For You'' was selected to receive the 2001 National Agri-Marketing Association's award for Best of Show. Congratulations on this impressive achievement!

Farmland Industries clearly understands the important role of international trade to the agriculture industry. As the only working family farmer in the United States Senate and Chairman of the Senate Committee on Finance, I also appreciate the importance of international trade to America's farmers. International trade has a significant impact on my home state of Iowa, with agriculture exports contributing more than $5 billion a year to Iowa's economy. Nationwide, approximately $6 million in agriculture products, such as grains, oilseed, cotton, meats, and vegetables are processed for export every day. These exports generate more than $100 billion in total business activity, and sustain nearly a million American jobs.

Trade is vital to the United States economy generally, and to our farmers in particular, as agriculture makes an enormous and valuable contribution as our third largest export. Increased market opportunities in agricultural trade are of tremendous importance to American farmers and to our economy. That is why I applaud your efforts to inform and mobilize the farming community in support of open markets.

The ''Support Trade'' program sponsored by Farmland Industries, and the communications team led by Sherlyn Manson and David Eaheart, addressed a vitally important issue through a program that has informed and enlightened farmers at the grassroots level on the importance of international trade.

You are to be highly commended for your leadership. Too few companies appreciate the importance of trade education at the grassroots level. Farmland Industries is truly a leader whose example I hope others will emulate.

I look forward to working with you during this session of Congress as we address such important international trade issues as renewing Trade Promotion Authority for President Bush, continuing normal trade relations for the People's Republic of China, passing normal trade relations for Vietnam, and preparing for the launch of a new round of World Trade Organization negotiations this November.

Again, congratulations for your selection as the recipient of the 2001 National Agri-Marketing Association's Best of Show.

Sincerely,

CHARLES E. GRASSLEY.●

KRESSE INDUCTED INTO ATHLETIC HALL OF FAME

● Mr. HOLLINGS. Mr. President, for the past 22 years, men's basketball at the College of Charleston has been charmed by the unique powers of head coach John Kresse. Last week, the native New Yorker earned a berth in Palmetto sports history when he was inducted into the South Carolina Athletic Hall of Fame. Coach Kresse's remarkable statistics speak for themselves. He has compiled a 539–134 record with the Cougars for an .801 winning percentage that trails only Jerry Tarkanian and Roy Williams among active coaches. With a December 1999 victory over Tennessee Tech, he also became the second fastest coach in NCAA history to record 500 wins. That same year, the College of Charleston became the only team in Southern Conference history to post a 19–0 season. Under his leadership, the Cougars have earned four NCAA and two NIT tournament bids and have won 22 or more games in 17 of the last 21 seasons.

Coach Kresse arrived in Charleston in 1979 after successful stints as assistant coach under Lou Carnesecca at his alma mater, St. John's, and the New York Nets of the American Basketball Association. Over the next two decades, he groomed Charleston's modest basketball program to become a nationally-recognized competitor and source of tremendous state pride. ''I'm not a showy guy,'' Kresse told The Post and Courier newspaper about his transformation from city slicker to Southern sports hero. ''I'm a basic meat and potatoes guy who fell in love with this city, this State and the hospitality.'' The home arena now bears Coach Kresse's name, but fans bear his testimony every time they cheer a Cougar squad to victory. I can't think of anyone who deserves to be a Hall of Famer more than John Kresse. ●

S.C. TENNIS COACH CELEBRATES 80TH BIRTHDAY

● Mr. HOLLINGS. Mr. President, Wilton ''Skinny'' McKinney first swung a tennis racket in 1930 while giving his Greer neighborhood's new red clay court a try. He and his buddies scrounged up one ball and a rule book and, before you know it, Skinny had caught the tennis bug.

Skinny served as captain of his Greenville High and University of South Carolina tennis teams, and then served his country for three years in the Pacific fleet during World War II. Although he went on to capture the South Carolina doubles championship five times, Skinny found his true talent when he began coaching at his high school alma mater in 1948. For 25 years, he worked as an accountant by day and volunteer coach in the evening, leading Greenville High to an unprecedented 16 State titles. He continues to give weekly lessons in Greenville. Many of his former students have won athletic scholarships, including a handful of All-Americans, and two became world-class players.

Skinny's success has earned him numerous accolades, including the Order of the Palmetto and Rotary International's Paul Harris Fellow award, as well as elections to the Southern Tennis Hall of Fame and the South Carolina Tennis Hall of Fame. For many years, he was also chair umpire at the Family Circle Cup tennis tournament on Hilton Head. The center tennis court at the Greenville Country Club, where he is a former director of tennis programs, bears his name, as does an annual award presented by The South Carolina Tennis Association. Yet most of his students would argue his greatest asset is an inspired coaching style that tempers hard work with a caring attitude. Last week, friends and students paid tribute to the 60-year coaching veteran with a surprise 80th birthday party.

''Skinny'' McKinney is a credit to the sport of tennis, to South Carolina and the nation. Peatsy and I wish him a happy belated birthday and best wishes out on the court.●

TRIBUTE TO SOUTHERN CHRISTIAN HOME ON THE OCCASION OF THEIR 75TH ANNIVERSARY

● Mrs. LINCOLN. Mr. President, I rise today to recognize the contributions of the Southern Christian Home of Morrilton, Arkansas, to countless citizens and families of Arkansas. On Saturday, May 5, 2001, the Southern Christian Home celebrates its 75th Anniversary.

Established in 1926 in Fort Smith, AR, the Southern Christian Home, SCH, relocated to Morrilton, AR, in 1936. Their mission during the past 75 years has been to glorify God by providing services that meet the physical, moral, mental, social, and spiritual needs of children based on Biblical truths and principles. The SCH provides care to children ages 6 to 17 years old. Since the SCH's inception there have been an estimated 5,000 to 6,000 children who have received care through the SCH's service offerings.

The Southern Christian Home's commitment to children is far reaching. While the SCH's primary focus has been Arkansas children, it has also provided services to children from Albania, China, and Brazil. Additionally, the SCH operates a children's home in Sao Paulo, Brazil.

As I have said on many occasions in the Senate, there is no greater national resource than our children. We, as a society, must continually reaffirm our commitment to ensure that all children live healthy, enriching, and promising lives. The work of the Southern Christian Home is a shining example of this ideal.

On behalf of Arkansans and the Senate, I take this opportunity to wish Southern Christian Home a happy 75th Anniversary. I hope for them every success for the coming 75 years.●

NATIONAL ASSOCIATION OF INSURANCE WOMEN WEEK

● Mrs. CARNAHAN. Mr. President, I would like to bring to the Senate's attention that a few weeks from now will be National Association of Insurance Women week.

Professional insurance women constitute over 50 percent of those employed in our Nation's insurance industry. For that reason, the National Association of Insurance Women and its 400 local affiliates are dedicated to the development of leaders for the insurance industry.

NAIW and its affiliates promote personal and professional development through education, networking and leadership opportunities to all women in the insurance business. Both national and local organizations continually strive to raise the standards of ethics, consumer education and customer service throughout the insurance industry.

NAIW local affiliates are engaged in charitable causes to strengthen and enhance hundreds of communities throughout the U.S., Canada, Puerto Rico and the Virgin Islands. Professional insurance women have earned recognition for their many accomplishments in the economically vital insurance industry.

It is important that we celebrate and honor the women who are performing such important and diverse roles throughout the risk and insurance industry.●

HONORING DETROIT POLICE OFFICERS

● Mr. LEVIN. Mr. President, I would like to take this opportunity to honor members, past and present, of the Detroit Police Department.

Detroit is my home town and as a citizen of Detroit, I owe much to our men and women in uniform. Each day, the members of the Detroit Police Department put their lives on the line to act as guardians of peace and protect the people of our great city.

On May 11, 2001, at the Twenty-Eighth Annual Detroit Police Department's Interfaith Memorial Service, we will recognize our distinguished law enforcement and honor the memory of officers who lost their lives in the line of duty. These officers have made the ultimate sacrifice for our safety and we are forever indebted to them and their families.

I am sure all of my colleagues will join me in honoring the fallen law enforcement officers of the Detroit Police Department and commemorate their

timeless dedication to the men, women and children of our great city.●

SPIRIT MOUND

● Mr. JOHNSON. Mr. President I rise today to recognize the Spirit Mound Trust and the State of South Dakota in their efforts to preserve and maintain the historic Spirit Mound site located near Vermillion, SD. Recently, 320 acres of the Spirit Mound site were acquired through the collaborative efforts and active involvement of the local community, the State of South Dakota and the Federal Government.

On August 24, 1804, Lewis and Clark stopped near present day Vermillion, SD, and walked nearly 9 miles in temperatures over 100 degrees to a hill that native people thought was inhabited by devils 18–24 inches high. When Lewis and Clark reached the top of the mound, they saw the great northern plains buffalo herds below them, the beautiful Missouri River valley and even present day Iowa and Nebraska.

As the Lewis and Clark bicentennial approaches, it is estimated that between 15–30 million enthusiasts will retrace the expedition's footsteps. This provides a unique opportunity for many to visit and enjoy South Dakota's beautiful and historic landscape. A restored Spirit Mound will significantly contribute to the public's appreciation of Native culture, the Lewis and Clark expedition and the natural beauty of South Dakota's prairie. Also, the W.H. Over Museum in Vermillion, SD, has established a Lewis and Clark/Spirit Mound Learning and Information Center. This center will help educate visitors about the historical role Spirit Mound played in the Lewis and Clark expedition.

The Spirit Mound Trust, a group that has long advocated the preservation of the Spirit Mound site, was established in 1986 with the goal of raising the necessary money to purchase and restore the area to its native prairie landscape. The acquisition and restoration of Spirit Mound would not have become a reality if it were not for the leadership and perseverance of this local group. In the group's 15 year history, 17 board members—past and present—are responsible for Spirit Mound's current preservation. Those members are: Larry Monfore, Dr. Loren Carlson, Mark Wetmore, Margaret Cash, Dr. William Farber, Dr. Thomas Gasque, Amond Hanson, Dr. Jim Heisinger, Dr. Jim Peterson, Charles Wetmore, James Antonen, Dr. Betty Asher, Dr. Leonard Brugier, Dr. Jerry Johnson, Jim Kruger, Dr. Fred Peabody, and Dr. Webster Sill.

Governor William J. Janklow and his staff also played an important role in the acquisition of the Spirit Mound site. Governor Janklow has been steadfast in his support for state participation in the Spirit Mound project. Tim Bjork, who is the director of the South Dakota Parks and Wildlife Foundation, negotiated the purchase price of the land. Without his leadership and tenacity, the acquisition of Spirit Mound would have never been accomplished.

I would also be remiss if I did not thank my former staff member and Vermillion native, Sarah Dahlin. Because of her tireless work and dedication to this project, we are now able to celebrate the eventual preservation of one of the very few physical features of the Upper Missouri River readily identifiable as a place where Lewis and Clark actually stood. With Sarah's assistance, I am pleased that we were able to secure sufficient federal funds to purchase the Spirit Mound acreage and to pass legislation authorizing this unique federal-state partnership.

Future generations will thank all of those who have sacrificed time, effort and money for this project. The preservation of Spirit Mound will enable all Americans to better appreciate what the Lewis and Clark Corps of Discovery experienced nearly 200 years ago.●

TONY AND MARGARET RADOSEVICH

● Mr. WELLSTONE. Mr. President, I rise today to talk about two extraordinary and significant people, Tony and Margaret Radosevich. Let me tell you about these people, let me tell you what they mean to their church, to their community and to their family.

It is people like Tony and Marg Radosevich, first generation Americans, the very salt of the earth, who through hard work, strong ethics and clear vision, quite literally helped make northern Minnesota a wonderful place to live and raise a family—a place that strongly values education, democracy and hard work. Tony and Marg have lived their faith, standing up for their beliefs, putting them into action and teaching their children and community to do the same.

On a personal note, I know these people well. It is their 50th wedding anniversary on Saturday, May 5, 2001. They are celebrating 50 years of loving, laughing, and discussions around the diningroom table. Marg and Tony have raised seven children, opening their home to their children's friends and foreign exchange students. Marg is known for her ability to put a feast on the table with only minutes notice. I, myself, have been the beneficiary of her wonderful cooking and their joint hospitality.

I want to take a moment today to recognize these good and decent people, the true heroes and heroines of our time. Tony and Marg, you are well loved. I wish you all the best as you, your family and friends celebrate your 50 years together.●

COMMENDATION OF ANDY ROBINSON

● Mr. REED. Mr. President, I rise to congratulate and commend one of my constituents, Andy Robinson of Narragansett, RI. At the end of last year, Andy Robinson retired from teaching after thirty years in the classroom. This Sunday his family, friends and innumerable former students will celebrate Andy's career and the impact he has had on the lives of so many Rhode Islanders. Andy Robinson is a model public servant and I would like to take a few minutes to express my appreciation for his commitment to our community.

Born and raised in East Providence, Andy graduated from my alma mater, LaSalle Academy. After receiving his bachelors degree from Providence College, Andy became a student teacher at Narragansett Junior High School. He then took a position for three years as a social studies teacher at Burrillville Junior-Senior High School while completing his masters degree at Providence College.

In 1975 Andy accepted a job as a social studies teacher at Narragansett High School, and I doubt he imagined at the time that he would dedicate the next 25 years to forming the minds of the students attending that school. Andy worked hard to improve and broaden the social studies program at Narragansett High School. He introduced Project Close-Up, Rhode Island Project Insight, the Rhode Island Model Legislature Program, the Mock Trial Program, the Junior Achievement Applied Economics Program and the Center for Civic Education ''We the People'' Program and Constitution Competition. He also obtained a federal grant to bring the Youth and the Law Program to the School. Andy served as the Social Studies Department Chair, a member of the school Steering Committee, a member of the School Based Improvement Team, and a member of the Review Committee for National Standards in Social Studies. For his endless energy and unflagging commitment to education, Andy has received the ''Ocean State Center for Law And Citizenship Education Outstanding Law Educator'' and is named in Who's Who in American Education.

Moreover, Andy's public service did not end in the classroom. From 1968 to 1989, Andy served in the Rhode Island National Guard. He has held positions in the Narragansett Lions Club, the Narragansett Democratic Town Committee and the Eastward Look Property Owner Association. He continues to serve as a member of the Narragansett Chamber of Commerce, the Friendly Sons of St. Patrick of South Country, the Board of Incorporators South County Hospital, the Prout School Board and the Prout School Academic Affairs Committee.

Andy shares his commitment to the community with his wife Jane, who is a teacher at the Narragansett Elementary School. Together they raised two daughters, Catherine, who will soon begin serving the U.S. Army as a JAG, and Elizabeth who is carrying on the family tradition as a teacher of special education in Virginia.

Recently, Narragansett High School dedicated its yearbook to Andy Robinson. Several students wrote tributes to him and they all had common themes, students looked forward to Mr. Robinson's class, he made the material interesting and easy to learn, and he cared. Andy Robinson is an uncommon teacher. I think one student, Melissa Deluca, spoke for everyone when she wrote, ''Mr. Robinson, our teacher, our guide, my friend. Thank you.''

Andy Robinson is an inspiration not only to his students, but to all who have the pleasure of knowing him. On behalf of the citizens of Rhode Island, I want to thank Andy for his years of hard work and selfless dedication and congratulate him on a well deserved retirement.●

MESSAGE FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 10. An act to provide for pension reform, and for other purposes.

The message also announced that pursuant to 22 U.S.C. 2761, the Speaker appoints the following Members of the House of Representatives to the British-American Interparliamentary Group: Mr. PETRI of Wisconsin and Mr. GALLEGLY of California.

The message further announced that pursuant to section 1404 of Public Law 99–661 (20 U.S.C. 4703), the Minority Leader appoints the following individual to the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation: Mr. RALPH M. HALL of Texas.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1712. A communication from the Secretary of the Commission, Premerger Notification Office, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Interim Rule to Amend the Premerger Notification and Report Form and Instructions'' (16 CFR 801, 802, 803) received on April 26, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1713. A communication from the Senior Legal Advisor of the Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Communications Assistance for Law Enforcement Act, Second Order on Reconsideration'' (Fcc 01–126; Doc. 97–213) received on April 28, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1714. A communication from the Senior Legal Advisor of the Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''1998 Biennial Regulatory Review—Amendment of Part 97 of the Commission's Amateur Service Rules, Memorandum Opinion and Order'' (Fcc 01–108; Doc. 98–143) received on April 28, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1715. A communication from the Attorney of the Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Temporary Reduction of Registration Fees'' (RIN2137–AD53) received on May 1, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1716. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area'' received on May 2, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1717. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Zone Off Alaska—Closes Pacific Cod by the Offshore Component in the Western Regulatory Area, Gulf of Alaska'' received on May 2, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1718. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Plant Protection Act; Revisions to Authority Citations'' (Doc. No. 00–063–2) received on April 27, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1719. A communication from the Acting Administrator of the Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Wool and Mohair Market Loss Assistance Program and Apple Market Loss Assistance Program'' (RIN0560–AG35) received on April 28, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1720. A communication from the Acting Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Opting Out of Segregation'' (RIN3038–AB67) received on May 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1721. A communication from the Acting Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Privacy of Consumer Financial Information'' (RIN3038–AB68) received on May 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1722. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Forchlorfenuron; Time-Limited Pesticide Tolerance'' (FRL6781–4) received on May 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1723. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Surcroglycerides; Exemption from the Requirement of a Tolerance'' (FRL6778–9) received on May 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1724. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Venezuela; to the Committee on Banking, Housing, and Urban Affairs.

EC–1725. A communication from the Deputy Secretary of the Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''240.17Ad–7 Record Retention'' (RIN3235–AH74) received on April 28, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–1726. A communication from the Deputy Secretary of the Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Records to Be Preserved By Certain Exchange Members, Brokers and Dealers'' (17 CFR 240.17a–4) received on May 1, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–1727. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed Technical Assistance Agreement for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–1728. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–1729. A communication from the Chairman of the Commission on International Religious Freedom, transmitting, pursuant to law, the annual report relative to the Commission's findings and recommendations for 2000; to the Committee on Foreign Relations.

EC–1730. A communication from the Deputy Assistant Secretary of Indian Affairs (Management), Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Law and Order on Indian Reservations'' (RIN1076–AE15) received on April 28, 2001; to the Committee on Indian Affairs.

EC–1731. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''April–June 2001 Bond Factor Amounts'' (Rev. Rul. 2001–19) received on April 28, 2001; to the Committee on Finance.

EC–1732. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Review of Benefit Claims Decisions'' (RIN2990–AJ99) received on May 1, 2001; to the Committee on Veterans' Affairs.

EC–1733. A communication from the Director of Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on April 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–1734. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Revision of Requirements for Licensed Anti-Human Globulin and Blood Grouping Reagents; Confirmation of Effective Date'' (Doc. No. 00N–1586) received on May 2, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–1735. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Additional Safeguards for Children in Clinical Investigations of FDA-Regulated Products; Interim Rule'' (RIN0910–AC07) received on May 2, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–1736. A communication from the Acting Assistant Secretary, Health Affairs, Department of Defense, transmitting, pursuant to law, a report relative to case management and custodial care program; to the Committee on Armed Services.

EC–1737. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense, Legislative Affairs; to the Committee on Armed Services.

EC–1738. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Defense, Acquisition, Technology, and Logistics; to the Committee on Armed Services.

EC–1739. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Department of Defense General Counsel; to the Committee on Armed Services.

EC–1740. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report entitled ''2000 Wiretap Report''; to the Committee on the Judiciary.

EC–1741. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, a report relative to the Foreign Intelligence Surveillance Act of 1978; to the Committee on the Judiciary.

EC–1742. A communication from the Chairman of the United States Sentencing Commission, transmitting, pursuant to law, a report concerning amendments to the federal sentencing guidelines, policy statements, and official commentary; to the Committee on the Judiciary.

EC–1743. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report relative to a project for flood control, environmental restoration and recreation for Salt Creek, Graham Texas; to the Committee on Environment and Public Works.

EC–1744. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Great Lakes Breeding Population of the Piping Plover'' (RIN1018–AG14) received on May 2, 2001; to the Committee on Environment and Public Works.

EC–1745. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Storage, Treatment, Transportation, and Disposal of Mixed Waste'' (FRL6975–1) received on May 2, 2001; to the Committee on Environment and Public Works.

EC–1746. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules'' (FRL6975–2) received on May 2, 2001; to the Committee on Environment and Public Works.

EC–1747. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a report concerning the Capital Investment and Leasing Program for Fiscal Year 2002; to the Committee on Environment and Public Works.

EC–1748. A communication from the Deputy Associate Administrator of the Office of Acquisition Policy, General Service Administration, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 97–27 consisting of FAR Case 1999–607, Electronic and Information Technology Accessibility, Final Rule'' (FAC 97–27) received on April 26, 2001; to the Committee on Governmental Affairs.

EC–1749. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on May 2, 2001; to the Committee on Governmental Affairs.

EC–1750. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the Annual Program Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–46. A resolution adopted by the Senate of the Legislature of the Northern Marianas Commonwealth relative to an amendment to the Constitution of the United States concerning Judicial taxation; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 12–33

Whereas, the separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

Whereas, under the United States Constitution, the states are to determine public policy; and

Whereas, it is the duty of the judiciary to interpret law, not to create law; and

Whereas, our present federal government has strayed from the interest of our founding fathers and the United States Constitution through inappropriate federal mandates; and

Whereas, these mandates by the way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

Whereas, the federal district courts with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with federal mandates; and

Whereas, these court actions violate the United states Constitution and the legislative process; and

Whereas, the time has come for the people of this great nation and their duly elected representatives in state government, to reaffirm, in no uncertain terms that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government whom they chose, such representatives being directly responsible and accountable to those who have elected them; and

Whereas, the lawmakers of the Commonwealth of the Northern Mariana Islands have petitioned the United states Congress to propose an amendment to the Constitution of the United States of America; and

Whereas, the amendment was previously introduced in Congress; and

Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people against the people's wishes: Now, therefore, be it

Resolved by the Senate of the Twelfth Northern Marianas Commonwealth Legislature:

1. That the Congress of the United states prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: ''Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or subdivision to levy or increase taxes.''

2. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States.

3. That the legislature of the Northern Mariana Islands also proposes that the legislatures of each of the several states comprising the United States that have not yet made a similar request apply to the United States Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the United States congress to propose such an amendment to the United States Constitution; and be it further

Resolved, That the President of the Senate shall certify and the Senate Legislative Secretary shall attest to the adoption of this resolution and certified copies shall thereafter be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the presiding officer in each house of the legislature in each of the States in the Union; President Pro Temp of the United States Senate, and to the Honorable Pedro P. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands.

POM–47. A resolution adopted by the House of the Legislature of the State of Michigan relative to Airfare Pricing; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION NO. 63

Whereas, In recent years, mergers among airlines have significantly changed air transportation throughout our country. There are two pending mergers involving major carriers that, if completed, will result in two airlines controlling half of the entire United States airline market; and

Whereas, While there have been increasing concerns over the quality of air services, the prospect of even more communities facing a market situation with little or no competition has many observers calling for actions that would ensure that there is fairness in pricing and acceptable standards of performance. Certain communities and regions of the country face the possibility of losing air services entirely or dealing with prices that do not have to respond to competition; and

Whereas, Our nation's air transportation network represents an enormous investment and a public-private partnership through the airports, air traffic control systems, and infrastructures that are maintained; and

Whereas, There are discussions underway in congress and in the United States Justice Department on the impact of mergers, whether or not airlines are fulfilling previous agreements, and relevant antitrust

issues. These discussions need to include serious consideration of airfare pricing, particularly in areas where little or no competition exists: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to investigate airfare pricing, especially in markets where mergers have eroded competition; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–48. A joint resolution adopted by the Legislature of the State of Montana relative to federal weed control programs and the procurement of federal weed control funds; to the Committee on Agriculture, Nutrition, and Forestry.

JOINT RESOLUTION

Whereas, noxious weeds are invasive species that are very difficult to contain or eliminate once they are established; and

Whereas, noxious weeds are invading Montana's rangeland, forest land, waterways, cities, towns, private lands, and public lands, including National Parks and monuments; and

Whereas, noxious weeds replace native species on lands regardless of land ownership and land ownership boundaries; and

Whereas, Montana's citizens and Legislature have made significant contributions and commitments toward reducing the acreage infested by noxious weeds and controlling any new invasions; and

Whereas, current working agreements between public land management agencies and country weed districts and other local groups are generally successful in addressing the control or containment of noxious weeds on public lands; and

Whereas, noxious weeds are a continuous problem that must be addressed on an annual basis and are never truly eradicated from the ecosystem; and

Whereas, public land management agencies should, at a minimum, contribute financially to the control of noxious weeds in Montana: Now, therefore be it

Resolved by the Senate and the House of Representatives of the State of Montana, That the federal government be strongly urged to:

(1) enter into agreements with local groups and agencies to promote the control of noxious weeds in a manner that addresses locally identified priorities;

(2) continue to provide funding for local weed control programs on an annual and continuing basis; and

(3) provide assistance in helping local groups and agencies access federal weed control programs and procure available federal weed control funds. Be it further

Resolved, That copies of this resolution be sent by the Secretary of State to the President of the United States, the Vice President of the United States, the Secretary of Agriculture, the Secretary of the Interior, the presiding officers of the Appropriations Committees of the U.S. Senate and U.S. House of Representatives, the Montana Congressional Delegation, the Chief of the Forest Service, the Director of the Bureau of Reclamation, and the Director of the bureau of Land Management.

POM–49. A joint resolution adopted by the Legislature of the State of Montana relative to Montana's Yellowstone and Missouri River Basins; to the Committee on Environment and Public Works.

JOINT RESOLUTION

Whereas, Montana lost 590,000 acres of land to reservoir flooding under the Pick-Sloan plan, as set out in the federal Flood Control Act of 1944, and was in return promised 1,313,930 acres of new irrigation, but only 76,200 acres were ever developed for irrigation under the plan; and

Whereas, over 16,500,000 acre-feet of water leave Montana annually in the Missouri and Yellowstone Rivers—water that is abundant but underused in this time of need for growth in Montana; and

Whereas, Montana's conservation districts have reserved over 853,000 acre-feet of water for new irrigation development, and the state has completed water rights compacts with several tribes that enable tribes to develop many acres of new irrigation as well; and

Whereas, Montana's agricultural sector continues to shrink along with the population of rural communities; and

Whereas, Montana consumes less than 30% of the hydropower that is generated in the state under the Pick-Sloan plan; and

Whereas, Montana's Vision 2005 program identified the goal of doubling the value of irrigated agriculture by the year 2005 by developing 500,000 acres of new irrigation, which is less than one-half of the number of acres promised under the Pick-Sloan plan; and

Whereas, costs for power may double or triple, and without low-cost power, it will become impossible to irrigate new lands and even existing irrigated lands identified in the original Pick-Sloan plan; and

Whereas, agriculture is Montana's largest industry, and any increase in values from irrigation would benefit the entire state and region: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the State of Montana, That the federal government be strongly urged to:

(1) assist the efforts of the Lower Yellowstone Conservation District Development Committee in obtaining the promised benefits of the Pick-Sloan Missouri River plan, as set out in the federal Flood Control Act of 1944; and

(2) assist the efforts of the Lower Yellowstone Conservation District Development Committee in drafting and passing the proposed federal Montana Water Resources Act, which will outline benefits promised in the Flood Control Act that are needed to sustain existing irrigation and the development of new irrigation throughout Montana's Yellowstone and Missouri River basins. Be it further

Resolved, That the Secretary of State send copies of this resolution to the President of the United States, the Vice President of the United States, the Secretary of the United States Department of Agriculture, the Secretary of the Interior, the presiding officers of the Energy and Natural Resources Committees of the United States Senate and House of Representatives, the Montana Congressional Delegation, and the Commissioner of the federal Bureau of Reclamation.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation.

Michael P. Jackson, of Virginia, to be Deputy Secretary of Transportation.

Brenda L. Becker, of Virginia, to be an Assistant Secretary of Commerce.

Theodore William Kassinger, of Maryland, to be General Counsel of the Department of Commerce.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C. section 271:

To be rear admiral

Rear Adm. (1h) David R. Nicholson, 0216
Rear Adm. (1h) Ronald F. Silva, 1219

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning Quincey N. Adams and ending Kathryn L. Wunderlich, which nominations were received by the Senate and appeared in the Congressional Record on March 19, 2001.

Coast Guard nominations beginning Benes Z. Aldana and ending Marshall E. Wright, which nominations were received by the Senate and appeared in the Congressional Record on March 22, 2001.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. TORRICELLI (for himself and MS. SNOWE):

S. 819. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN (for himself and Mr. CRAIG):

S. 820. A bill to amend the Energy Policy Act of 1992 to assess opportunities to increase carbon storage on national forests derived from the public domain and to facilitate voluntary and accurate reporting of forest projects that reduce atmospheric carbon dioxide concentrations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FRIST (for himself and Mr. THOMPSON):

S. 821. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself, Mr. SMITH of Oregon, Mr. CRAIG, Mr. DASCHLE, and Mr. LEAHY):

S. 822. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of

bonds issues to acquire renewable resources on land subject to conservation easement; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. CHAFEE):

S. 823. A bill to assure access under group health plans and health insurance coverage to covered emergency medical services; to the Committee on Finance.

By Mr. GRAHAM (for himself and Ms. SNOWE):

S. 824. A bill to establish an informatics grant program for hospitals and skilled nursing facilities; to the Committee on Finance.

By Mr. REID:

S. 825. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 191 and before 1992 to choose either lump sum payments over four years totaling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Finance.

By Mrs. LINCOLN:

S. 826. A bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the medicare program for bone mass measurements; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Mr. REED):

S. 827. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2001; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. HUTCHINSON, Mr. DODD, Mrs. CLINTON, Ms. CANTWELL, Mr. CARPER, Mr. DORGAN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. AKAKA, and Ms. MIKULSKI):

S. 828. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. CLELAND, Mr. SANTORUM, Mr. LOTT, Mrs. CLINTON, Mr. REID, Mr. DODD, Mr. MILLER, and Mr. EDWARDS):

S. 829. A bill to establish the National Museum of African American History and Culture within the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. CHAFEE (for himself, Mr. REID, Mr. HATCH, Mr. LEAHY, Mr. WARNER, Mr. TORRICELLI, Ms. SNOWE, Mrs. MURRAY, Ms. MIKULSKI, Mr. JOHNSON, Mr. CORZINE, and Mr. KERRY):

S. 830. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SHELBY:

S. 831. A bill to amend the Internal Revenue Code of 1986 to provide for a 100 percent deduction for business meals; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 832. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

By Ms. SNOWE (for herself, Mr. DODD, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. BINGAMAN, and Ms. COLLINS):

S. 833. A bill to amend the Internal Revenue Code of 1986 to expand the child tax credit; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself, Mr. ALLEN, Mr. BIDEN, and Mr. KERRY):

S. Res. 81. A resolution commending the members of the United States mission in the People's Republic of China for their persistence, devotion to duty, sacrifice, and success in obtaining the safe repatriation to the United States of the crew of the Navy EP–3E ARIES II aircraft who had been detained in China; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 82. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs and representation by the Senate Legal Counsel; considered and agreed to.

By Mr. MCCAIN (for himself, Mr. ALLEN, Mr. HOLLINGS, Mr. BREAUX, Mr. BOND, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. MIKULSKI, Mr. LIEBERMAN, and Mr. KENNEDY):

S. Con.Res. 36. A concurrent resolution honoring the National Science Foundation for 50 years of service to the Nation; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 37

At the request of Mr. LOTT, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 37, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 148

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

S. 170

At the request of Mr. REID, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 225

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 225, a bill to amend the Internal Revenue Code of 1986 to provide incentives to public elementary and secondary school teachers by providing a tax credit for teaching expenses, professional development expenses, and student education loans.

S. 275

At the request of Mr. KYL, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 275, a bill to amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to preserve a step up in basis of certain property acquired from a decedent, and for other purposes.

S. 283

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 283, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue code of 1986 to protect consumers in managed care plans and other health coverage.

S. 409

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 409, a bill to amend title 38, United States Code, to clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses, and for other purposes.

S. 503

At the request of Mr. REID, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 503, a bill to amend the Safe Water Act to provide grants to small public drinking water system.

S. 546

At the request of Mr. WARNER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 546, a bill to expand the applicability of the increase in the automatic maximum amount of Servicemembers' Group Life Insurance scheduled to take effect on April 1, 2001, to the deaths of certain members of the uniformed services who die before that date.

S. 549

At the request of Mr. CRAPO, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 549, a bill to ensure the availability of spectrum to amateur radio operators.

S. 571

At the request of Mr. THURMOND, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 571, a bill to provide for the location of the National Museum of the United States Army.

S. 592

At the request of Mr. SANTORUM, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 592, a bill to amend the Internal Revenue Code of 1986 to create Individual Development Accounts, and for other purposes.

S. 606

At the request of Mr. CRAPO, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Colorado (Mr. CAMPBELL) were added as a cosponsors of S. 606, a bill to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency.

S. 613

At the request of Mr. FITZGERALD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 613, a bill to amend the Internal Revenue Code of 1986 to enhance the use of the small ethanol producer credit.

S. 630

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 630, a bill to prohibit senders of unsolicited commercial electronic mail from disguising the source of their messages, to give consumers the choice to cease receiving a sender's unsolicited commercial electronic mail messages, and for other purposes.

S. 697

At the request of Mr. BAUCUS, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 697, a bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

S. 705

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 705, a bill to establish a health information technology grant program for hospitals and for skilled nursing facilities and home health agencies, and to require the Secretary of Health and Human Services to establish and implement a methodology under the medicare program for providing hospitals with reimbursement for costs incurred by such hospitals with respect to information technology systems.

S. 778

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 783

At the request of Mr. LEAHY, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 783, a bill to enhance the rights of victims in the criminal justice system, and for other purposes.

S. RES. 68

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. Res. 68, a resolution designating September 6, 2001 as ''National Crazy Horse Day.''

S. RES. 74

At the request of Mr. DAYTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 74, a resolution expressing the sense of the Senate regarding consideration of legislation providing medicare beneficiaries with outpatient prescription drug coverage.

S. RES. 75

At the request of Mr. HUTCHINSON, the names of the Senator from Missouri (Mr. BOND), the Senator from Missouri (Mrs. CARNAHAN), the Senator from Louisiana (Mr. BREAUX), the Senator from New Jersey (Mr. CORZINE), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 75, a resolution designating the week beginning May 13, 2001, as ''National Biotechnology Week.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Ms. SNOWE):

S. 819. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee of Health, Education, Labor, and Pensions.

Mr. TORRICELLI. Mr. President, I rise today to introduce the Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 2001 along with my colleague from Maine, Senator SNOWE.

Osteoporosis and other related bone diseases pose a major public health threat. More than 28 million Americans, 80 percent of whom are women, suffer from, or are at risk for, osteoporosis. Between three and four million Americans suffer from related bone diseases like Paget's disease or osteogenesis imperfecta. Today, in the United States, 10 million individuals already have osteoporosis and 18 million more have low bone mass, placing them at increased risk. Osteoporosis is preventable through the use of new technology, yet the majority of Americans with the disease remain undiagnosed and untreated.

Osteoporosis is often called the ''silent disease'' because bone loss occurs without symptoms. Often people do not know they have osteoporosis until their bones become so weak that a sudden bump or fall causes a fracture or a vertebrae to collapse. Every year, there are 1.5 million bone fractures caused by osteoporosis. Half of all women, and one-eighth of all men, age 50 or older, will suffer a bone fracture due to osteoporosis.

The consequences of osteoporosis are often unrecognized. In New Jersey, individuals hospitalized with osteoporosis fractures average 9.3 days in the hospital for hip fracture and 71 days for vertebral fracture. National statistics show that 10 to 20 percent of people with hip fracture either die within six months, cannot walk without aid or require long-term care. Education is needed to encourage individuals and their providers to diagnose osteoporosis early and treat the disease swiftly, preventing costly and debilitating fractures.

Osteoporosis is a progressive condition that has no known cure; thus, prevention and treatment are key. The Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 2001 seeks to combat osteoporosis, and related bone diseases like Paget's disease by requiring private health plans to cover bone mass measurement tests for qualified individuals who are at risk for developing osteoporosis.

Bone mass measurement is the only reliable method of detecting osteoporosis in its early stages. The test is non-invasive and painless and is predictive of future fractures as high cholesterol or high blood pressure is of heart disease or stroke. This legislation is similar to a provision in the Balanced Budget Act of 1997 that requires Medicare coverage of bone mass measurements.

Medical experts agree that osteoporosis is preventable. Thus, if the toll of osteoporosis and other related bones diseases are to be reduced, the commitment to prevention and treatment must be significantly increased.

The bill is supported by the National Osteoporosis Foundation, American Medical Women's Association, American Society for Bone & Mineral Research, Osteogenesis Imperfecta Foundation, National Association of Orthopedic Nurses, American Physical Therapy Association and the Health Promotion Institute.

I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 2001''.

(b) FINDINGS.—Congress makes the following findings:

(1) NATURE OF OSTEOPOROSIS.—

(A) Osteoporosis is a disease characterized by low bone mass and structural deterioration of bone tissue leading to bone fragility and increased susceptibility to fractures of the hip, spine, and wrist.

(B) Osteoporosis has no symptoms and typically remains undiagnosed until a fracture occurs.

(C) Once a fracture occurs, the condition has usually advanced to the stage where the likelihood is high that another fracture will occur.

(D) There is no cure for osteoporosis, but drug therapy has been shown to reduce new hip and spine fractures by 50 percent and other treatments, such as nutrition therapy, have also proven effective.

(2) INCIDENCE OF OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) 28,000,000 Americans have (or are at risk for) osteoporosis, 80 percent of which are women.

(B) Osteoporosis is responsible for 1.5 million bone fractures annually, including more than 300,000 hip fractures, 700,000 vertebral fractures and 200,000 fractures of the wrists.

(C) Half of all women, and one-eighth of all men, age 50 or older will have a bone fracture due to osteoporosis.

(D) Between 3,000,000 and 4,000,000 Americans have Paget's disease, osteogenesis imperfecta, hyperparathyroidism, and other related metabolic bone diseases.

(3) IMPACT OF OSTEOPOROSIS.—The cost of treating osteoporosis is significant:

(A) The annual cost of osteoporosis in the United States is $13,800,000,000 and is expected to increase precipitously because the proportion of the population comprised of older persons is expanding and each generation of older persons tends to have a higher incidence of osteoporosis than preceding generations.

(B) The average cost in the United States of repairing a hip fracture due to osteoporosis is $32,000.

(C) Fractures due to osteoporosis frequently result in disability and institutionalization of individuals.

(D) Because osteoporosis is a progressive condition causing fractures primarily in aging individuals, preventing fractures, particularly for post menopausal women before they become eligible for medicare, has a significant potential of reducing osteoporosis-related costs under the medicare program.

(4) USE OF BONE MASS MEASUREMENT.—

(A) Bone mass measurement is the only reliable method of detecting osteoporosis at an early stage.

(B) Low bone mass is as predictive of future fractures as is high cholesterol or high blood pressure of heart disease or stroke.

(C) Bone mass measurement is a noninvasive, painless, and reliable way to diagnose osteoporosis before costly fractures occur.

(D) Under section 4106 of the Balanced Budget Act of 1997, Medicare provides coverage, effective July 1, 1999, for bone mass measurement for qualified individuals who are at risk of developing osteoporosis.

(5) RESEARCH ON OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) Technology now exists, and new technology is developing, that will permit the early diagnosis and prevention of osteoporosis and related bone diseases as well as management of these conditions once they develop.

(B) Funding for research on osteoporosis and related bone diseases is severely constrained at key research institutes, including the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Diabetics and Digestive and Kidney Diseases, the National Institute of Dental Research, and the National Institute of Child Health and Human Development.

(C) Further research is needed to improve medical knowledge concerning—

(i) cellular mechanisms related to the processes of bone resorption and bone formation, and the effect of different agents on bone remodeling;

(ii) risk factors for osteoporosis, including newly discovered risk factors, risk factors related to groups not ordinarily studied (such as men and minorities), risk factors related to genes that help to control skeletal metabolism, and risk factors relating to the relationship of aging processes to the development of osteoporosis;

(iii) bone mass measurement technology, including more widespread and cost-effective techniques for making more precise measurements and for interpreting measurements;

(iv) calcium (including bioavailability, intake requirements, and the role of calcium in building heavier and denser skeletons), and vitamin D and its role as an essential vitamin in adults;

(v) prevention and treatment, including the efficacy of current therapies, alternative drug therapies for prevention and treatment, and the role of exercise; and

(vi) rehabilitation.

(D) Further educational efforts are needed to increase public and professional knowledge of the causes of, methods for avoiding, and treatment of osteoporosis.

SEC. 2. REQUIRING COVERAGE OF BONE MASS MEASUREMENT UNDER HEALTH PLANS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4) is amended by adding at the end the following:

"SEC. 2707. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement;

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;

''(F) is a man with a low trauma fracture; or

''(G) the Secretary determines is eligible.

''(c) LIMITATION ON FREQUENCY REQUIRED.—Taking into account the standards established under section 1861(rr)(3) of the Social Security Act, the Secretary shall establish standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this section. The Secretary may vary such standards based on the clinical and risk-related characteristics of qualified individuals.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(i) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include

(consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement;

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;

''(F) is a man with a low trauma fracture; or

''(G) the Secretary determines is eligible.

''(c) LIMITATION ON FREQUENCY REQUIRED.—The standards established under section 2707(c) of the Public Health Service Act shall apply to benefits provided under this section in the same manner as they apply to benefits provided under section 2707 of such Act.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(h) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)), as amended by section 603(b)(1) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Standards relating to benefits for bone mass measurement.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 (42 U.S.C. 300gg–52) the following new section:

''SEC. 2753. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (g)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

''(c) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).''.

(2) CONFORMING AMENDMENTS.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after October 1, 2001.

(2) INDIVIDUAL MARKET.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after October 1, 2001.

By Mr. WYDEN (for himself and Mr. CRAIG):

S. 820. A bill to amend the Energy Policy Act of 1992 to assess opportunities to increase carbon storage on national forests derived from the public domain and to facilitate voluntary and accurate reporting of forest projects that reduce atmospheric carbon dioxide concentrations, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today Senator CRAIG and I are introducing legislation that uses a simple, scientifically sound and entirely voluntary approach to combat global warming. It's not revolutionary, and it's not regulatory. We believe growing more trees, bigger trees and healthier trees is one of the most effective ways to remove greenhouse gases from the atmosphere and help protect the earth's climate. The Forest Resources for the environment and the Economy Act of 2001 will expand the nation's forested lands and put our forests on the frontlines in the battle against global warming.

Investing in healthy forests today is an investment in the well-being of our planet for decades to come. In the Pacific Northwest, forests are more than critical environmental resources—they are also a cornerstone of our economy. In debates about forest policies, there are those who have advocated an exclusively environmental pathway, and others who have stressed an exclusively economic pathway. This bill is part of what I believe is a third pathway through the woods, a path to both stronger rural economies and healthier forests.

I introduced this bill with Senator CRAIG in the 106th Congress. Though there have been numerous changes to the bill to address specific concerns, the underlying functions of the bill remain the same: this bill will reduce the buildup of greenhouse gases in the atmosphere and help protect our global climate for ourselves, our children and our grandchildren. It will provide improved wildlife and fish habitats and protect our waterways. It will enhance our national forests by reducing water pollution within their watersheds. It will provide jobs in the forestry sector in areas that have been hard hit by declining timber harvests. And it will grow additional timber resources on underproductive private lands.

The legislation does all of this through entirely voluntary, incentive-based approach. The bill makes new resources available to private landowners through state-operated revolving loan programs that provide assistance for tree planting and other forest management actions. I know that this approach works because of the leadership of my home state, Oregon. The loan

program is modeled after the innovative Forest Resource Trust, which was established in Oregon in 1993, and is just one of the many ways Oregon continues to lead the nation in state actions to reduce greenhouse gas emissions. I am introducing this bill to make sure that we take advantage of these opportunities across the country and encourage more businesses to invest in the nation's forests.

The bill is based on recommendations of the National Academy of Sciences to overcome the capital constraints that prevent non-industrial, private forest land owners from growing healthy forests. Almost 10 million landowners in the United States own 42 percent of the non-industrial, private forest land in parcels of less than 100 acres. Access to the low-interest loans provided by this bill can empower these landowners to improve their lands while providing global environmental protection.

In addition to establishing the state revolving loan programs, the bill makes important changes to the Energy Policy Act of 1992 to strengthen the voluntary accounting and verification of greenhouse gas reductions from forestry activities. The bill directs the Secretary of Agriculture to develop new guidelines on accurate and cost-effective methods to account for and report real and credible greenhouse gas reductions. These guidelines will be developed with the input of a new Advisory Council representing industry, foresters, states, and environment groups.

As I said above, numerous changes have been made to the bill since its introduction in the 106th Congress. By a process of intellectual give and take between various Congressional offices, stakeholder groups and environmental organizations, this bill has been improved to offer greater environmental protection opportunities and better science. The bill now requires that all funded projects have ''a positive impact on watersheds, fish habitats, and wildlife diversity.'' It promotes reforestion activities for species that are native to a region. Also, the bill now allows flexibility in the loan repayment requirements that encourage the longer rotation, and permanent protection, of lands reforested under this program. In addition, the new Advisory Council will have three independent scientists instead of one and the members must have an expertise in forest management; carbon storage reporting will include monitoring requirements to assure the net increase of carbon storage; and the bill allows for the incorporation of the latest scientific and observational information. Overall, this bill is a solid step forward in the long journey towards addressing global climate change.

As in the last Congress, this bill will pay for itself by taking the money that polluters pay when they are caught violating the Clean Air Act and Clean Water Act and use it to expand our forests, protect streams and rivers and help remove greenhouse gases from the air. In fiscal year 1998, $45 million of these environmental penalties were assessed against polluters. There are currently no guarantees that these penalties, which revert to the General Fund, are used to improve our environment. This bill would make this money available as loans to small and medium landowners to cover the upfront costs of tree planting and other activities that aid in the growth of healthy, productive forests and provide better wildlife habitats.

We cannot afford to play Russian roulette with our global climate. The total amount of greenhouse gases in our atmosphere depends, in part, on the efficiency of forests and other natural ''sinks'' that absorb carbon dioxide—the most significant greenhouse gas—from the atmosphere. The implications are as simple as they are scientifically sound—if we grow more trees, bigger trees, and healthier trees, we will remove more greenhouse gases from the atmosphere and help protect the global climate. According to the Pacific Forest Trust, our forest lands in the United States are only storing one-quarter of the carbon they can ultimately store. Just tapping a portion of this potential by expanding and increasing the productivity of the nation's 737 million acres of forests is an important part of a win-win strategy to slow global warming. This bill takes an important first step toward sequestering greenhouse gases on Federal lands: it directs the Forest Service to report to Congress on options to increase carbon storage in our national forests.

It is hard to believe that nine years ago, during the first Bush Administration, both Democrat and Republican Senators proclaimed their support for taking action to protect the climate system and reducing the buildup of greenhouse gases in the atmosphere. When the 1992 United Nations Framework Convention on Climate Change was ratified by the Senate, Senators from both parties came to the floor to applaud this commitment to begin reducing greenhouse gas emissions. And then-President Bush supported that position as well. We cannot afford to let the current debates about international treaties paralyze this Congress when their are opportunities here at home to protect our environment in ways that also provide jobs and economic growth.

This bill is about taking advantage of a clear win-win opportunity. It's a win for the global environment. It's a win for sustainable forestry. It's a win for local water protection. And it's a win for rural communities. For these reasons, the bill has already received positive reactions from timber companies and environmental organizations alike, including the National Association of State Foresters and the Society of American Foresters, American Forest and Paper Association, American Forests, Environmental Defense Fund, Governor John A. Kitzhaber of Oregon, PacificCorp, The Nature Conservancy, and The Pacific Forest Trust.

I look forward to pursuing this common-sense step toward protecting the environment and supporting our forest workers. This bill will have a sequential referral to both the Senate Energy and Natural Resources Committee and the Senate Agriculture Committee. These Committees share jurisdiction over all our nations forests, public and private. They represent the interests of the people who use our forests from the National Forest visitor, to the large industrial land owner, to the small woodlot owner. Through the combined efforts of both of these Committees, I am sure that the bill will receive a thorough hearing. I look forward to starting this process with a hearing in early May in the Energy and Natural Resources Committee.

I ask unanimous consent that the text of the bill and the section-by-section analysis of the Forest Resources for the Environment and the Economy Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Forest Resources for the Environment and the Economy Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government should increase the long-term forest carbon storage on public land while pursuing existing statutory objectives;

(2) insufficient information exists on the opportunities to increase carbon storage on public land through improvements in forest land management;

(3) important environmental benefits to national forests can be achieved through cooperative forest projects that enhance fish and wildlife habitats, water, and other resources on public or private land located in national forest watersheds;

(4) forest projects also provide economic benefits, including—

(A) employment and income that contribute to the sustainability of rural communities; and

(B) ensuring future supplies of forest products;

(5) monitoring and verification of forest carbon storage provides an important opportunity to create employment in rural communities and substantiate improvements in natural habitats or watersheds due to forestry activities; and

(6) sustainable production of biomass energy feedstocks provides a renewable source of energy that can reduce carbon dioxide emissions and improve the energy security of the United States by diversifying energy fuels.

(b) PURPOSE.—The purpose of this Act is to promote sustainable forestry in the United States by—

(1) increasing forest carbon sequestration in the United States;

(2) encouraging long term carbon storage in forests of the United States;

(3) improving water quality;

(4) enhancing fish and wildlife habitats;

(5) providing employment and income to rural communities;

(6) providing new sources of forest products;

(7) providing opportunities for use of renewable biomass energy; and

(8) improving the energy security of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) CARBON SEQUESTRATION.—The term ''carbon sequestration'' means the action of vegetable matter in—

(A) extracting carbon dioxide from the atmosphere through photosynthesis;

(B) converting the carbon dioxide to carbon; and

(C) storing the carbon in the form of roots, stems, soil, or foliage.

(2) FORESTRY CARBON ACTIVITY.—The term ''forestry carbon activity'' means a forest management action that—

(A) increases carbon sequestration and/or maintains carbon sinks,

(B) encourages long-term carbon storage, and

(C) has no net negative impact on watersheds and fish and wildlife habitats.

(a) FOREST CARBON PROGRAM.—The term ''forest carbon program'' means the program established by the Secretary of Agriculture under section 5 of the Forest Resources for the Environment and the Economy Act, to provide assistance through cooperative agreements and State revolving loan funds.

(4) FOREST CARBON RESERVOIR.—The term ''forest carbon reservoir'' means trees, roots, soils, or other biomass associated with forest ecosystems or products from the biomass that store carbon.

(5) FOREST CARBON STORAGE.—The term ''forest carbon storage'' means the quantity of carbon sequestered from the atmosphere and stored in forest carbon reservoirs, including forest products.

(6) FOREST LAND—

(A) IN GENERAL.—The term ''forest land'' means land that is, or has been, at least 10 percent stocked by forest trees of any size.

(B) INCLUSIONS.—The term ''forest land'' includes—

(i) land that had such forest cover and that will be naturally or artificially regenerated; and

(ii) a transition zone between a forested and nonforested area that is capable of sustaining forest cover.

(7) FOREST MANAGEMENT ACTION.—The term ''forest management action'' means the practical application of forestry principles to the regeneration, management, utilization, and conservation of forests to meet specific goals and objectives, while maintaining the productivity of the forests, including management of forests for aesthetics, fish, recreation, urban values, water, wilderness, wildlife, wood products, and other forest values.

(8) INVASIVE SPECIES.—The term ''invasive species'' means any species that is not native to an ecosystem and whose introduction does or is likely to cause economic or environmental harm or harm to human health.

(9) NONINDUSTRIAL PRIVATE FOREST.—The term ''nonindustrial private forest'' means forest land that is privately owned by an individual or corporation that does not control a forest products manufacturing facility and where management may include objectives other than timber production.

(10) REFORESTATION.—

(A) IN GENERAL.—The term ''reforestation'' means the reestablishment of forest cover naturally or artificially.

(B) INCLUSIONS.—The term ''reforestation'' includes—

(i) planned replanting;

(ii) re-seeding; and

(iii) natural regeneration.

(11) REVOLVING LOAN PROGRAM.—The term ''revolving loan program'' means a State revolving loan program established under section 5.

SEC. 4. CARBON MANAGEMENT ON FEDERAL LAND; CARBON MONITORING AND VERIFICATION GUIDELINES.

(a) DEFINITIONS.—Title XVI of the Energy Policy Act of 1992 is amended by inserting before section 1601 (42 U.S.C. 13381) the following:

''SEC. 1600. DEFINITIONS.

''In this title:

''(1) CARBON SEQUESTRATION.—The term 'carbon sequestration' means the action of vegetable matter in—

''(A) extracting carbon dioxide from the atmosphere through photosynthesis;

''(B) converting the carbon dioxide to carbon; and

''(C) storing the carbon in the form of roots, stems, soil, or foliage.'

''(2) FOREST CARBON STORAGE.—The term 'forest carbon storage' means the quantity of carbon sequestered from the atmosphere and stored in forest carbon reservoirs, including forest products.

''(3) FOREST CARBON PROGRAM.—The term 'forest carbon program' means the program established by the Secretary of Agriculture under section 5 of the Forest Resources for the environment and the Economy Act, to provide financial assistance through cooperative agreements and State revolving loan funds for forest carbon activities.

''(4) FOREST CARBON RESERVOIR.—The term 'forest carbon reservoir' means trees, roots, soils, or other biomass associated with forest ecosystems or products from the biomass that store carbon.

''(5) FOREST MANAGEMENT ACTION.—The term 'forest management action' means the practical application of forestry principles to the regeneration, management, utilization, and conservation of forests to meet specific goals and objectives, while maintaining the productivity of the forests, including management of forests for aesthetics, fish, recreation, urban values, water, wilderness, wildlife, wood products, and other forest values.''

(b) CARBON MANAGEMENT ON FEDERAL LAND.—Section 1604 of the Energy Policy Act of 1992 (42 U.S.C. 13384) is amended—

(1) by inserting ''(a) REPORT.—'' before ''NOT''; and

(2) by adding at the end the following:

''(b) CARBON MANAGEMENT ON FEDERAL LAND.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, after consultation with appropriate Federal agencies, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall report to Congress on—

''(A) the quantity of carbon contained in the forest carbon reservoir of the National Forest System and the methodology and assumptions used to ascertain that quantity;

''(B) the potential to increase the quantity of carbon in the National Forest System and provide positive impacts on watersheds and fish and wildlife habitats through forest management actions; and

''(C) the role of forests in the carbon cycle and the contributions of U.S. forestry to the global carbon budget.

''(2) CONTENTS.—The report shall also include an assessment of any impacts of the forest management actions identified under paragraph (1)(B) on timber harvests, wildlife habitat, recreation, forest health, and other statutory objectives of national forest system management.''

(c) MONITORING AND VERIFICATION OF CARBON STORAGE.—Section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) is amended by adding at the end the following:

(5) GUIDELINES ON REPORTING, MONITORING, AND VERIFICATION OF CARBON STORAGE FROM FOREST MANAGEMENT ACTIONS.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of this paragraph, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall—

''(i) review the guidelines established under paragraph (1) that address procedures for the accurate voluntary reporting of greenhouse gas sequestration from tree planting and forest management actions;

''(ii) make recommendations to the Secretary of Energy for amendment of the guidelines; and

''(iii) provide an opportunity for public comment on the guidelines established under subparagraph (A) prior to their submission to the Secretary of Energy.

''(B) CARBON AND FORESTRY ADVISORY COUNCIL.—

''(i) ESTABLISHMENT.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a Carbon and Forestry Advisory Council for the purpose of—

''(I) advising the Secretary of Agriculture in the development and updating of guidelines for accurate voluntary reporting of greenhouse gas sequestration from forest management actions;

(II) evaluating the potential effectiveness of the guidelines in verifying carbon inputs and outputs from various forest management strategies;

''(III) estimating the effect of proposed implementation on carbon sequestration and storage;

''(IV) assisting the Secretary of Agriculture in reporting annually to Congress on the results of the carbon storage program; and

''(V) assisting the Secretary of Agriculture in assessing the vulnerability of forests to adverse effects of climate change.

''(ii) MEMBERSHIP.—The Advisory Council shall be composed of the following 16 members with interest and expertise in carbon sequestration and forestry management, appointed by the Secretaries of Agriculture and Energy:

''(I) 1 member representing national professional forestry organizations;

''(II) 2 members representing environmental or conservation organizations;

''(III) 1 member representing nonindustrial, private landowners;

''(IV) 1 member representing forest industry;

''(V) 1 member representing American Indian Tribes;

''(VI) 1 member representing forest laborers;

''(VII) 3 members representing the academic scientific community;

''(VII) 2 members representing State forestry organizations;

''(IX) 1 member representing the Department of Energy;

''(X) 1 member representing the Environmental Protection Agency;

''(XI) 1 member representing the Department of Agriculture;

''(XII) 1 member representing the Department of the Interior

''(iii) TERMS.—

''(I) IN GENERAL.—Except as provided in subclause (III), a member of the Advisory Council shall be appointed for a term of 3 years.

''(II) CONSECUTIVE TERMS.—No individual may serve on the Advisory Council for more than 2 consecutive terms.

''(III) INITIAL TERMS.—Of the members first appointed to the Advisory Council—

''(aa) 1 member appointed under each of subclauses (II), (VI), (VII), (X), and (XIII) of

clause (ii) shall serve an initial term of 1 year; and

''(bb) 1 member appointed under each of subclauses (I), (IV), (VII), (IX), (XI), and (XIV) shall serve an initial term of 2 years.

''(iv) VACANCY.—A vacancy on the Advisory Council shall be filled in the manner in which the original appointment was made.

''(v) CONTINUATION.—Any member appointed to fill a vacancy occurring before the expiration of the term shall be appointed only for the remainder of the term.

''(vi) COMPENSATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), a member of the Advisory Council shall serve without compensation, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Advisory Council.

''(II) FEDERAL OFFICERS AND EMPLOYEES.—A member of the Advisory Council who is a full-time officer or employee of the United States shall receive no additional compensation or allowances because of the service of the member on the Advisory Council.

''(III) SUPPORT.—The Secretary shall provide financial and administrative support for the Advisory Council.

''(vii) USE OF EXISTING COUNCIL.—The Secretary of Agriculture may use an existing council to perform the tasks of the Carbon and Forestry Advisory Council providing—

''(I) Council representation, membership terms and background, and Council responsibilities reflect those stated in subparagraph (B), and

''(II) The responsibilities of the Council, as described in subparagraph (A), are a priority for the Council.

''(C) CRITERIA.—

''(i) IN GENERAL.—The recommendations described in subparagraph (A)(ii) shall include reporting guidelines that—

''(I) are based on—

''(aa) measuring increases in carbon storage in excess of the carbon storage that would have occurred in the absence of the reforestation, forest management, forest protection, or other forest management actions; and

''(bb) comprehensive carbon accounting that reflects net increases in the carbon reservoir and takes into account any carbon emissions resulting from disturbance of carbon reservoirs existing at the start of a forest management action;

''(II) include options for—

''(aa) estimating the indirect effects of forest management actions on carbon storage, including possible emissions of carbon that may result elsewhere as a result of the project's impact on timber supplies or possible displacement of carbon emissions to other lands owned by the reporting party;

''(bb) quantifying the expected carbon storage over various time periods, taking into account the likely duration of carbon stored in the carbon reservoir; and

''(cc) considering the economic and social affects of management alternatives.

''(ii) ACCURATE MONITORING, MEASUREMENT, AND VERIFICATION.—

''(I) IN GENERAL.—The recommendations described in subparagraph (A)(ii) shall include recommended practices for monitoring, measurement, and verification of carbon storage from forest management actions.

''(II) REQUIREMENTS.—The recommended practices shall, to the maximum extent practicable—

''(aa) be based on statistically sound sampling strategies that build on knowledge of the carbon dynamics of forests and agricultural land;

''(bb) include cost-effective combinations of field conditions measurements with modeling to compute carbon stocks and changes in stocks;

''(cc) include guidance on how to sample and calculate carbon sequestration across multiple participating ownerships; and

''(dd) do not prevent use of more precise measurements, if desired by a reporting entity.

''(D) STATE FOREST CARBON PROGRAMS.—The recommendations described in subparagraph (A)(ii) shall include guidelines to States for reporting, monitoring, and verifying carbon storage under the forest carbon program.

''(E) BIOMASS ENERGY PROJECTS.—The recommendations described in subparagraph (A)(ii) shall include guidelines for calculating net greenhouse gas reductions from biomass energy projects, including—

''(i) net changes in carbon storage resulting from changes in land use; and

''(ii) the effect that using biomass to generate electricity (including co-firing of biomass with fossil fuels) has on the displacement of greenhouse gas emissions from fossil fuels.

''(F) AMENDMENT OF GUIDELINES.—Not later than 180 days after receiving the recommendations from the Secretary of Agriculture, the Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall revise the guidelines established under paragraph (1) to include the recommendations.

''(G) REVIEW OF GUIDELINES BY THE ADVISORY COUNCIL.—

''(i) PERIODIC REVIEW.—At least every 24 months, the Secretary of Agriculture shall—

''(I) convene the Advisory Council to evaluate the latest scientific and observational information on reporting, monitoring, and verification of carbon storage from forest management actions; and

''(II) issue revised guidelines for reporting, monitoring, and verification of carbon storage from forest management actions as necessary.

''(ii) CONSISTENCY WITH FUTURE LAWS.—The Secretary of Agriculture shall convene the Advisory Council as necessary to ensure that the guidelines for reporting, monitoring, and verification of carbon storage from forest management actions are revised to be consistent with any Federal laws enacted after the date of enactment of this Act.

''(6) MONITORING OF FOREST CARBON PROGRAMS.—

''(A) IN GENERAL.—Forest Carbon Program reports shall—

''(i) be developed in accordance with the guidelines issued under paragraph (1),

''(ii) state the quantity of carbon storage realized;

''(iii) include the data used to monitor and verify the carbon storage,

''(iv) be consistent with reporting requirements of the Energy Information Administration, and

''(v) ensure the avoidance of double counting of forest carbon activities.

''(B) STATES AND COOPERATIVE AGREEMENT PARTICIPANTS.—States receiving assistance to establish revolving loans and entities participating in cooperative agreements for forest carbon programs shall—

''(i) monitor and verify carbon storage achieved under the program in accordance with guidelines issued under subparagraph (5)(E),

''(ii) report annually to the Secretary of Agriculture on the results of the carbon storage program, and

''(iii) report annually to any non-governmental organization, business, or other entity that provides funding for the carbon storage program.

''(C) SECRETARY OF AGRICULTURE.—

''(i) IN GENERAL.—The Secretaries shall report annually to Congress on the results of the carbon storage program.

''(ii) INCLUSIONS.—The report shall include—

''(I) specifications consistent with subparagraph (A),

''(II) an assessment of the effectiveness of monitoring and verification,

''(III) a report on carbon activities associated with cooperative agreements for the forest carbon program, and

''(IV) a State Forest Carbon Program compliance report established by—

''(aa) reviewing reports submitted by states under clause (B)(ii),

''(bb) verifying compliance with the guidelines under subparagraph (A),

''(cc) notifying the State of compliance status,

''(dd) notifying the State of any corrections that are needed to attain compliance, and

''(ee) establishing an opportunity for resubmission by the State.''

SEC. 5. FOREST CARBON COOPERATIVE AGREEMENTS AND LOAN PROGRAM.

(a) FOREST CARBON COOPERATIVE AGREEMENT.—The Secretary may enter into cooperative agreements with willing landowners from State or local governments, American Indian tribes, Alaska Natives, native Hawaiians and private, nonprofit entities for forest carbon activities on private land, state land, American Indian land, Alaska Native land, or native Hawaiian land.

(b) FOREST CARBON REVOLVING LOAN PROGRAM.—

(1) IN GENERAL.—In collaboration with State Foresters and non-governmental organizations, the Secretary shall provide assistance to States so that States may establish a revolving loan program for forest carbon activities on non-industrial private forest (NIPF) land.

(2) ELIGIBILITY.—An owner of non-industrial private forest land shall be eligible for assistance from a revolving loan fund for forest carbon activity on not more than a total of 5,000 acres of their NIPF land holdings.

(3) LOAN TERMS.—A loan agreement under the program shall—

(A) have loan interest rates that are established by the State—

(i) as necessary to encourage participation of NIPF landowners in the loan program,

(ii) not to exceed a real rate of return in excess of 3%, and

(iii) that will further the forest carbon program objectives;

(B) require that all loan obligations be repaid to the State—

(i) at the time of harvest of land covered by the program; or

(ii) in accordance with any other repayment schedule determined by the State;

(iii) proportional to the percentage decrease of carbon stock;

(C) include provisions that provide for private insurance or that otherwise release the owner from the financial obligation for any portion of the timber, forest products, or other biomass that—

(i) is lost to insects, disease, fire, storm, flood, or other natural destruction through no fault of the owner; or

(ii) cannot be harvested because of restrictions on tree harvesting imposed by the Federal State, or local government after the date of the agreement;

(D) impose a lien on all timber, forest products, and biomass grown on land covered by the loan, with an assurance that the terms of the lien shall transfer with the land on sale, lease, or transfer of the land;

(E) include a buyout option that—

(i) specifies financial terms allowing the owner to terminate the agreement before harvesting timber from the stand established with loan funds; and

(ii) repays the loan with interest;

(F) recognize that, until the loan is paid in full by the participating landowner or otherwise terminated in accordance with this Act, all reductions in atmospheric greenhouse gases achieved by the project funded by the loan are attributable to the non-Federal entities that provide funding for a loan (including the State or any other person, company, or non-governmental organization that provides funding to the State for purposes of issuing the loan); and

(G) include provisions for the monitoring and verification of carbon storage.

(4) CANCELLATION OF LOAN TERMS FOR PERMANENT CONSERVATION.—

(A) IN GENERAL.—The State shall cancel the loan agreement under paragraph (3) and any liens on the timber, forest products, and biomass under paragraph (3)(C) if the borrower donates to the State or may cancel the loan agreement under paragraph (3) and any liens on the timber, forest products, and biomass under paragraph (3)(C) if the borrower donates to another appropriate entity a permanent conservation easement that—

(i) furthers the purposes of this Act, including managing the land in a manner that maximizes the forest carbon reservoir of the land; and

(ii) permanently protects the covered private forest land and resources at a level above what is required under applicable Federal, State, and local law.

(B) CONTINUATION OF FOREST MANAGEMENT ACTIONS.—The conservation easement may allow the continuation of forest management actions that increase carbon storage on the land and forest or otherwise further the purposes of this Act.

(5) REINVESTMENT OF FUNDS.—All funds collected under a loan issued under this subsection (including loan repayments, loan buyouts, and any interest payments) shall be reinvested by the State in the program and used by the State to make additional loans under the program in accordance with this subsection.

(6) RECORDS.—The State Forester shall—

(A) maintain all records related to any loan agreement funded from a revolving loan fund; and

(B) make the records available to the public.

(7) MATCHING FUNDS.—

(A) IN GENERAL.—In order to be eligible to continue participating in the program, any State in the program under this section shall provide matching funds equal to at least 25 percent of the Federal funds made available to the State for the program, beginning the second year of program participation.

(B) FORM.—The State may provide the matching funds in the form of in-kind administrative services, technical assistance, and procedures to ensure accountability for the use of Federal funds.

(8) LOAN FUNDING DISTRIBUTION.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in consultation with State Foresters, the Secretary shall—

(i) establish a formula under which Federal funds shall be distributed under this subsection among eligible States; and

(ii) report the formula and methodology to Congress.

(B) BASIS.—The formula shall—

(i) be based on maximizing the potential for meeting the objectives of this Act;

(ii) give appropriate consideration to—

(I) the acreage of un-stocked or under-producing private forest land in each State;

(II) the potential productivity of such land;

(III) the potential long-term carbon storage of such land;

(IV) the potential to achieve other environmental benefits;

(V) the number of owners eligible for loans under this section in each State; and

(VI) the need for reforestation, timber stand improvement, or other forestry investments consistent with the objectives of this Act; and

(iii) give priority to States that have experienced or are expected to experience significant declines in employment levels in the forestry industries due to declining timber harvests on Federal land.

(9) PRIVATE FUNDING.—A revolving loan fund may accept and distribute as loans any funds provided by non-governmental organizations, businesses, or persons in support of the purposes of this Act.

(10) BONNEVILLE POWER ADMINISTRATION.—

(A) IN GENERAL.—The States of Washington, Oregon, Idaho, and Montana may apply for funding from the Bonneville Power Administration for purposes of funding loans that meet both the objectives of this Act and the fish and wildlife objectives of the Bonneville Power Administration under the Pacific Northwest Electric Power and Conservation Act (16 U.S.C. 839 et seq.).

(B) APPLICATION OF REQUIREMENTS UNDER OTHER LAW.—An application under subparagraph (A) shall be subject to all rules and procedures established by the Pacific Northwest Electric Power and Conservation Planning Council and the Bonneville Power Administration under the Pacific Northwest Electric Power and Conservation Act (16 U.S.C. 839 et seq.).

(c) REQUIREMENTS.—

(1) ELIGIBLE FORESTRY CARBON ACTIVITIES.—Eligible forestry carbon activities that—

(A) help restore under-producing or understocked forest lands,

(B) provide for protection of forests from non-forest use,

(C) allow a variety of sustainable management alternatives, and

(D) have no net negative impact on watersheds and fish and wildlife habitats.

(2) GUIDANCE.—The Secretary, working through the US Forest Service and in collaboration with States, shall provide guidance on eligible forestry carbon activities based on the criteria of this section.

(3) ACTIVITIES REQUIRED UNDER OTHER LAW.—Funding shall not be provided under this section for activities required under other applicable Federal, State, or local laws.

(4) PRE-AGREEMENT ACTIVITIES.—Funding shall not be provided for costs incurred before entering into a cooperative or loan agreement under this Act.

(5) LIMITATION ON LAND CONSIDERED FOR FUNDING.—No new loan agreements shall be entered into under this section to fund reforestation of land harvested after the date of enactment of this Act if the landowner received revenues from the harvest sufficient to reforest the land.

(6) ELIGIBLE TREE SPECIES.—

(A) IN GENERAL.—Selection of tree species for loan projects shall be consistent with Executive Order No. 13112, ''Invasive Species''.

(B) PROGRAM FUNDING.—Funding for reforestation activities shall be provided for—

(i) tree species native to a region,

(ii) tree species that formerly occupied the site, or

(iii) non-native tree species or hybrids that are non-invasive.

(7) FOREST-MANAGEMENT PLAN.—Priority shall be given to projects on land under a forestry management plan or forest stewardship plan, if the plan is consistent with the objectives of the carbon storage program.

(8) USE OF FUNDS.—

(A) funds will be used to pay—

(i) the cost of purchasing and planting tree seedings; and

(ii) other costs associated with the planted trees, including planning, site preparation, forest management, monitoring, measurement and verification, and consultant and contractor fees.

(B) funds will not be used to—

(i) pay the owner for the owner's own labor; or

(ii) purchase capital items or expendable items, such as vehicles, tools, and other equipment.

(9) FINANCIAL ASSISTANCE AMOUNT.—The amount of financial assistance provided under this section shall not exceed—

(A) 100 percent of total project costs, whether they constitute the only funding source or are used in combination with funds received from any other source; or

(B) $100,000 during any 2-year period.

(10) FEDERAL FUNDING.—During fiscal years 2001 through 2010, civil penalties collected under section 113 of the Clean Air Act (42 U.S.C. 7413) and under section 309(d) of the Federal Water Pollution Control Act (33 U.S.C. 1319(d)) shall be available, without further appropriation, to fund cooperative agreements and revolving loan funds authorized in this section.

(11) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall—

(i) allocate 15 percent of available funds for Cooperative agreements as specified under subsection (a), and

(ii) allocate 85 percent of available funds for State revolving loan programs as specified under subsection (b), after determining that States have implemented a system to administer the loans in accordance with this Act.

THE FOREST RESOURCES FOR THE ENVIRONMENT AND THE ECONOMY ACT—SECTION-BY-SECTION ANALYSIS

The purposes of the bill are to develop monitoring and verification systems for carbon reporting in forestry, to increase carbon sequestration in forests by encouraging private sector investment in forestry, and to promote employment in forestry in the United States. The bill achieves these purposes through three major actions: (1) Guidelines for Accurate Carbon Accounting for Forests.—The bill directs the Secretary of Agriculture, through the Forest Service, to establish scientifically-based guidelines for accurate reporting, monitoring, and verification of carbon storage from forest management actions. The bill establishes a multi-stakeholder Carbon and Forestry Advisory Council to assist USDA in developing the guidelines.

(2) Report on Options to Increase Carbon Storage on Federal Lands—The bill directs the Secretary of Agriculture, through the Forest Service, to report to Congress on forestry options to increase carbon storage in the National Forest System.

(3) State Revolving Loan Programs/Cooperative Agreements—The bill provides assistance to plant and manage underproducing or understocked forests to increase carbon sequestration. Assistance is provided through Cooperative Agreements with State or local governments, American Indian Tribes, Alaska natives, native Hawaiians, and private-nonprofit entities; or through loans to non-industrial private forest landowners. The Federal share of funding for Cooperative Agreements and the loan program will come from penalties that are being assessed against violators of the Clean Air Act and the Clean Water Act (civil penalties assessed in FY 1998 totaled $45 million).

SECTION 1. SHORT TITLE

The title of the bill is the ''Forest Resources for the Environment and the Economy Act''.

SECTION 2. FINDINGS AND PURPOSES

This section states the findings of the bill, including: there is a need or additional information opportunities to increase carbon

storage on public land through improvements in forest land management; monitoring and verification of forest carbon storage can provide employment opportunities for rural communities; and the sustainable production of biomass energy feedstocks provides a renewable source of energy that can improve the energy security of the United States.

This section also states the purposes of the bill: to increase carbon sequestration in forests; to provide employment and income to rural communities; and to improve the energy security of the United States by providing opportunities for development of renewable biomass energy

SECTION 3. DEFINITIONS

This section defines terms used in the bill, including the following: ''Carbon sequestration''; ''Forestry carbon activity''; ''Forest carbon program''; ''Forest carbon reservoir''; ''Forest carbon storage''; ''Forest land''; ''Forest management action''; ''Invasive species''; ''Nonindustrial private forest''; ''Reforestation''; and ''Revolving loan program''.

SECTION 4. CARBON MANAGEMENT ON FEDERAL LAND; CARBON MONITORING AND VERIFICATION GUIDELINES

This section amends Title XVI (''Global Climate Change'') of the Energy Policy Act of 1992.

(a) Definitions: This subsection amends the Energy Policy ACt to add the definitions for ''carbon sequestration''''forest carbon storage,'' ''forest carbon program,'' ''forest carbon reservoir,'' and ''forest management action'' that were specified in Section 3.

(b) Carbon Management on Federal Land: This subsection directs the Secretary of Agriculture to report to Congress on the quantity of carbon contained in the forest carbon reservoir in the national forest system. The report will include an assessment of forest management actions that can increase carbon storage on these national forest system lands. Finally, the report will include an assessment of the role of forests in the carbon cycle and the contributions of forestry to the global carbon budget. This subsection is accomplished by amendment to section 1604 of the Energy Policy Act (''Assessment of Alternative Policy Mechanisms for Addressing Greenhouse Gas Emissions'').

(c) Monitoring and Verification of Carbon Storage. This subsection amends section 1605(b) of the Energy Policy Act (''Voluntary Reporting''). It directs the Secretary of Agriculture to review the existing Federal guidelines on reporting, monitoring, and verification of carbon storage from forest management actions and to make recommendations to the Secretary of Energy for amendment of the guidelines.

Carbon and Forestry Advisory Council: This subsection also directs the Secretary of Agriculture to establish a 16–member, multistakeholder Carbon and Forestry Advisory Council for the purpose of advising the Department of Agriculture on: the development of the guidelines for accurate voluntary reporting of greenhouse gas sequestration from forest management actions, and for other purposes.

Criteria: The guidelines developed by the Secretary of Agriculture must take account of additionality and leakage. The guidelines must include recommended practices for monitoring, measurement and verification of carbon storage that are scientifically sound and cost-effective.

State Forest Carbon Programs: The guidelines will include guidance to States for reporting, monitoring and verifying carbon storage achieved under the carbon storage program established in Section 5 of the bill.

Biomass energy projects: The guidelines will include guidance on calculating net greenhouse gas reductions from biomass energy projects.

Amendment of guidelines: The subsection directs the Secretary of Energy to revise the existing voluntary reporting guidelines to include the recommendations provided by the Secretary of Agriculture.

Review of guidelines: Guidelines must be reviewed at least every 24 months, and as necessary for consistency with any future Federal laws that credit for reductions of atmospheric greenhouse gas concentrations resulting from forest management actions.

Monitoring of Forest Carbon Programs: Participants in the Forest Carbon Program established in Section 5 of the bill must report annually to the Secretary of Agriculture on the results of the program. Reports that are certified to comply with the guidelines in this section will be submitted to the Department of Energy for inclusion in the 1605(b) voluntary reporting data base.

SECTION 5. FOREST CARBON COOPERATIVE AGREEMENTS AND LOAN PROGRAM

This section authorizes the Secretary of Agriculture to enter into cooperative agreements and directs the Secretary to provide assistance to States to establish revolving loan funds to undertake forestry carbon activities.

(a) *Forest Carbon Activity Cooperative Agreements.* This subsection authorizes the Secretary of Agriculture to enter into cooperative agreements with willing State or local governments, American Indian tribes, Alaska natives, native Hawaiians, and private-nonprofit landowners for forest carbon activities.

(b) *Forest Carbon Activity Revolving Loan Program.* This subsection establishes a program to provide assistance through State established revolving loan funds to nonindustrial private forest land owners (NIPF) for eligible forest carbon activities. Requirements include:

Eligibility: Funds may be used to support eligible forest carbon activities on not more than 5,000 acres of an NIPF landowners' holdings.

Loan terms: Loans must be repaid with interest at a rate not to exceed a 3 percent real rate of return. They must be repaid when the land is harvested, although the owner may pay off the loan prior to harvesting. Loans must include a transferable lien on all timber, forest products and biomass. The State assumes the risk of loss of timber due to natural disaster. A loan agreement must include recognition that, until the loan is paid off, all reductions in atmospheric greenhouse gases achieved by projects funded by the loan are attributable to the entity that provides funding for the loan.

Permanent conservation easements: Loan recipients can cancel the loan by donating a permanent conservation easement.

Reinvestment of funds: All repayments collected by a State must be reinvested in the program and used by the State to make additional loans.

Records: The State Forester shall maintain all loan records and make them available to the public.

Matching funds: A State must match Federal funding by at least 25% beginning in the second year of participating in the program.

Loan Funding Distribution: The Secretary will report to Congress on a formula under which Federal funds will be distributed among eligible States. The distribution formula will give priority to States that have experienced or are expected to experience significant declines in employment levels in the forestry industries due to declining timber harvests on Federal land.

Private funding: A revolving loan fund may accept any funds provided by non-governmental organizations, businesses or persons for the purpose of this Act.

Bonneville Power Administration (BPA): States served by BPA (Washington, Oregon, Idaho and Montana) may apply for funding from BPA for purposes of funding loans that meet both the objectives of this Act and the fish and wildlife objectives of BPA under current law.

(c) Requirements: This subsection specifies requirements of any financial assistance arrangement for forest carbon activities.

Eligibility: This gives a general definition of eligible forestry carbon activities.

Guidance: The Forest Service, in collaboration with the States, will provide guidance on eligible forestry carbon activities.

Activities require under law: Funding shall not be provided for activities required under existing laws.

Pre-agreements: Funding shall not be provided for costs already incurred.

Limitation on land considered for funding: No funding shall be provided for reforestation of land that has been harvested, if the landowner received revenues from the harvest sufficient to reforest the land.

Eligible tree species: Planted tress must be native or non-invasive species.

Forest management plan: Priority shall be given to projects on land under a forest management plan or forest stewardship plan.

Use of funds: Funds shall be used for planting of trees and their management.

Financial assistance amount: Cooperative agreements or loans may cover up to 100 percent of total project costs, not to exceed $100,000 during any 2-year period.

Authorization of appropriations: Authorizes funding from FY 2001 to FY 2010 at amounts equal to civil penalties collected under the Clean Water Act and the Clean Air Act, which currently revert to the Treasury as General Revenues. In fiscal year 1998, $45 million in penalties were assessed.

Allocation of funds: The Secretary shall allocate 15 percent of available funds for cooperative agreements and the remaining 85 percent for the State revolving loan fund.

By Mr. FRIST (for himself and Mr. THOMPSON):

S. 821. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. FRIST. Mr. President, today I introduce the ''TVA Modernization Act of 2001'' along with Senator THOMPSON. This bill would expand and restructure TVA's Board of Directors to make it reflect the board structure of most large corporations.

TVA is now a multi-billion dollar per year corporation. However, it continues to function under a Depression-era administrative structure. By expanding the board and restructuring it more like a corporation's board, TVA will be in a better position to meet the future challenges facing TVA and the energy industry as a whole.

Specifically, this legislation would create a nine-member, part-time board made up of experts in corporate management and strategic decision making. Each member would be required to be a legal resident of the TVA service area, and each member would receive an annual stipend. The board would appoint a CEO who would be responsible

for daily management decisions. Currently, the board is comprised of three full-time members, although one position is currently vacant, and the Chairman acts as the CEO.

This legislation provides the organizational structure necessary for TVA's future. With proper leadership and sound management practices, TVA can continue to improve and more efficiently provide its valuable services.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGE IN COMPOSITION, OPERATION, AND DUTIES OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY.

(a) IN GENERAL.—The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by striking section 2 and inserting the following:

"SEC. 2. MEMBERSHIP, OPERATION, AND DUTIES OF THE BOARD OF DIRECTORS.

''(a) MEMBERSHIP.—

''(1) APPOINTMENT.—The Board of Directors of the Corporation (referred to in this Act as the 'Board') shall be composed of 9 members appointed by the President by and with the advice and consent of the Senate, who shall be legal residents of the service area.

''(2) CHAIRMAN.—The members of the Board shall select 1 of the members to act as chairman of the Board.

''(b) QUALIFICATIONS.—

''(1) IN GENERAL.—To be eligible to be appointed as a member of the Board, an individual—

''(A) shall be a citizen of the United States;

''(B) shall have widely recognized experience or applicable expertise in the management of or decisionmaking for a large corporate structure;

''(C) shall not be an employee of the Corporation;

''(D) shall have no substantial direct financial interest in—

''(i) any public-utility corporation engaged in the business of distributing and selling power to the public; or

''(ii) any business that may be adversely affected by the success of the Corporation as a producer of electric power; and

''(E) shall profess a belief in the feasibility and wisdom of this Act.

''(2) PARTY AFFILIATION.—Not more than 5 of the 9 members of the Board may be affiliated with a single political party.

''(c) RECOMMENDATIONS.—In appointing members of the Board, the President shall—

''(1) consider recommendations from such public officials as—

''(A) the Governors of States in the service area;

''(B) individual citizens;

''(C) business, industrial, labor, electric power distribution, environmental, civic, and service organizations; and

''(D) the congressional delegations of the States in the service area; and

''(2) seek qualified members from among persons who reflect the diversity and needs of the service area of the Corporation.

''(d) TERMS.—

''(1) IN GENERAL.—A member of the Board shall serve a term of 5 years, except that in first making appointments after the date of enactment of this paragraph, the President shall appoint—

''(A) 2 members to a term of 2 years;

''(B) 1 member to a term of 3 years; and

''(C) 2 members to a term of 4 years.

''(2) VACANCIES.—A member appointed to fill a vacancy in the Board occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of that term.

''(3) REAPPOINTMENT.—

''(A) IN GENERAL.—A member of the Board that was appointed for a full term may be reappointed for 1 additional term.

''(B) APPOINTMENT TO FILL VACANCY.—For the purpose of subparagraph (A), a member appointed to serve the remainder of the term of a vacating member for a period of more than 2 years shall be considered to have been appointed for a full term.

''(e) QUORUM.—

''(1) IN GENERAL.—Six members of the Board shall constitute a quorum for the transaction of business.

''(2) MINIMUM NUMBER OF MEMBERS.—A vacancy in the Board shall not impair the power of the Board to act, so long as there are 6 members in office.

''(f) COMPENSATION.—

''(1) IN GENERAL.—A member of the Board shall be entitled to receive—

''(A)(i) a stipend of $30,000 per year; plus

''(ii) compensation, not to exceed $10,000 for any year, at a rate that does not exceed the daily equivalent of the annual rate of basic pay prescribed under level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the actual performance of duties as a member of the Board at meetings or hearings; and

''(B) travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

''(2) ADJUSTMENTS IN STIPENDS.—The amount of the stipend under paragraph (1)(A)(i) shall be adjusted by the same percentage, at the same time and manner, and subject to the same limitations as are applicable to adjustments under section 5318 of title 5, United States Code.

''(g) DUTIES.—

''(1) IN GENERAL.—The Board shall—

''(A) establish the broad goals, objectives, and policies of the Corporation that are appropriate to carry out this Act;

''(B) develop long-range plans to guide the Corporation in achieving the goals, objectives, and policies of the Corporation and provide assistance to the chief executive officer to achieve those goals, objectives, and policies, including preparing the Corporation for fundamental changes in the electric utilities industry;

''(C) ensure that those goals, objectives, and policies are achieved;

''(D) approve an annual budget for the Corporation;

''(E) establish a compensation plan for employees of the Corporation in accordance with subsection (i);

''(F) approve the salaries, benefits, and incentives for managers and technical personnel that report directly to the chief executive officer;

''(G) ensure that all activities of the Corporation are carried out in compliance with applicable law;

''(H) create an audit committee, composed solely of Board members independent of the management of the Corporation, which shall—

''(i) recommend to the Board an external auditor;

''(ii) receive and review reports from the external auditor; and

''(iii) make such recommendations to the Board as the audit committee considers necessary;

''(I) create such other committees of Board members as the Board considers to be appropriate;

''(J) conduct public hearings on issues that could have a substantial effect on—

''(i) the electric ratepayers in the service area; or

''(ii) the economic, environmental, social, or physical well-being of the people of the service area; and

''(K) establish the electricity rate schedule.

''(2) MEETINGS.—The Board shall meet at least 4 times each year.

''(h) CHIEF EXECUTIVE OFFICER.—

''(1) APPOINTMENT.—The Board shall appoint a person to serve as chief executive officer of the Corporation.

''(2) QUALIFICATIONS.—To serve as chief executive officer of the Corporation, a person—

''(A) shall be a citizen of the United States;

''(B) shall have management experience in large, complex organizations;

''(C) shall not be a current member of the Board or have served as a member of the Board within 2 years before being appointed chief executive officer; and

''(D) shall have no substantial direct financial interest in—

''(i) any public-utility corporation engaged in the business of distributing and selling power to the public; or

''(ii) any business that may be adversely affected by the success of the Corporation as a producer of electric power; and

''(3) TENURE.—The chief executive officer shall serve at the pleasure of the Board.

''(i) COMPENSATION PLAN.—

''(1) IN GENERAL.—The Board shall approve a compensation plan that specifies salaries, benefits, and incentives for the chief executive officer and employees of the Corporation.

''(2) ANNUAL SURVEY.—The compensation plan shall be based on an annual survey of the prevailing salaries, benefits, and incentives for similar work in private industry, including engineering and electric utility companies, publicly owned electric utilities, and Federal, State, and local governments.

''(3) CONSIDERATIONS.—The compensation plan shall provide that education, experience, level of responsibility, geographic differences, and retention and recruitment needs will be taken into account in determining salaries of employees.

''(4) SUBMISSION TO CONGRESS.—No salary shall be established under a compensation plan until after the compensation plan and the survey on which it is based have been submitted to Congress and made available to the public for a period of 30 days.

''(5) POSITIONS AT OR BELOW LEVEL IV.—The chief executive officer shall determine the salary and benefits of employees whose annual salary is not greater than the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(6) POSITIONS ABOVE LEVEL IV.—On the recommendation of the chief executive officer, the Board shall approve the salaries of employees whose annual salaries would be in excess of the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(b) CURRENT BOARD MEMBERS.—A member of the board of directors of the Tennessee Valley Authority who was appointed before the effective date of the amendment made by subsection (a)—

(1) shall continue to serve as a member until the date of expiration of the member's current term; and

(2) may not be reappointed.

SEC. 2. CHANGE IN MANNER OF APPOINTMENT OF STAFF.

Section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(a) APPOINTMENT BY THE CHIEF EXECUTIVE OFFICER.—The chief executive officer shall appoint, with the advice and consent of the Board, and without regard to the provisions of the civil service laws applicable to officers and employees of the United States, such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of the business of the Corporation.''; and

(2) by striking ''All contracts'' and inserting the following:

''(b) WAGE RATES.—All contracts''.

SEC. 3. CONFORMING AMENDMENTS.

(a) The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended—

(1) by striking ''board of directors'' each place it appears and inserting ''Board of Directors''; and

(2) by striking ''board'' each place it appears and inserting ''Board''.

(b) Section 9 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h) is amended—

(1) by striking ''The Comptroller General of the United States shall audit'' and inserting the following:

''(c) AUDITS.—The Comptroller General of the United States shall audit''; and

(2) by striking ''The Corporation shall determine'' and inserting the following:

''(d) ADMINISTRATIVE ACCOUNTS AND BUSINESS DOCUMENTS.—The Corporation shall determine''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect, and 7 additional members of the Board of the Tennessee Valley Authority shall be appointed so as to commence their terms on, May 18, 2002.

By Mrs. MURRAY (for herself, Mr. SMITH of Oregon, Mr. CRAIG, Mr. DASCHLE, and Mr. LEAHY):

S. 822. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of bonds issues to acquire renewable resources on land subject to conservation easement; to the Committee on Finance.

Mrs. MURRAY. Mr. President, I rise today to reintroduce the ''Community Forestry and Agriculture Conservation Act of 2001.''

Communities across the United States are losing private forest and farmland to development. Many citizens are demanding that we protect green space, control sprawl, and protect natural resources, fish and wildlife.

Unfortunately, there are few options available to local communities to protect these working green spaces. Federal, state or local governments can purchase the land outright. But this is expensive, and simply unworkable for larger tracts of forest and agricultural land. Outright purchase also raises concerns about harming local economies, reducing the tax base, and hurting private property rights.

Meanwhile, landowners are often land-rich and cash-poor. My bill would allow landowners to capitalize some or all of their assets.

We have a responsibility to find solutions that protect private forests and farm land, enhance economic prosperity, and bring communities together in the process. The Community Forestry and Agriculture Conservation Act would accomplish these goals.

The bill modifies the tax code to make it easier for communities to issue tax-exempt revenue bonds on behalf of a private non-profit corporation to purchase tracts of land. This protects the land from development, while allowing jobs that depend on harvesting the land to continue. The bonds would be serviced by harvesting the resources on the land in a responsible, sustainable way.

I want to give an example of the concept behind this bill, and then mention some of the benefits.

A group of community leaders would form a non-profit organization with a diverse board of directors. The non-profit organization would work with a landowner to reach a voluntary sale agreement at fair market value. The non-profit organization would then develop a binding management plan, which would allow for continued harvesting, but in a manner that exceeds federal and state conservation standards.

A local government could then issue tax-exempt revenue bonds on behalf of the non-profit organization to fund the acquisition of the land. The bonds would be serviced by the non-profit organization with revenue raised by the continued harvest of trees or crops in accordance with the management plan. The non-profit would hold title to the land, but an independent third party would monitor the permanent conservation easement.

There are three benefits to this bill.

First, it gives communities a new tool to protect green spaces from development. Second, communities are able to keep resource-based jobs and their tax base. Third, this legislation will bring communities together. It will move us away from the conflicts of the past and will encourage environmentalists, timber companies, farmers, and local governments to work together to maintain these green spaces.

This legislation is supported by a number of conservation organizations, private companies, local governments, and private associations, including: World Wildlife Fund; The Nature Conservancy; Trust for Public Land; Land Trust Alliance; Pacific Forest Trust; American Sportfishing Association; Plum Creek Timber Company; Collins Pine Companies; Mendocino Redwood Company; The Harwood Group; Port Blakely Tree Farms; Weyerhaeuser; The Campbell Group; King County, Washington; Mendocino County, California; Society of American Foresters; and the Political Economy Research Center.

In addition, the Senate agreed to a modified version of this legislation as an amendment to the Senate version of H.R. 2488 in 1999. The amendment was removed during conference.

As I did two years ago, I want to emphasize that this is an approach that every Senator can support. It is bipartisan. It is inexpensive. It is voluntary. It respects private property rights. It limits government involvement but establishes proper enforcement to prevent abuse. It protects the environment. It provides local control.

I would like to thank Senators G. SMITH, CRAIG, LEAHY, and DASCHLE for cosponsoring this legislation, and I urge my other colleagues to support it as well.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Forestry and Agriculture Conservation Act of 2001''.

SEC. 2. TREATMENT OF BONDS ISSUED TO ACQUIRE RENEWABLE RESOURCES ON LAND SUBJECT TO CONSERVATION EASEMENT.

(a) IN GENERAL.—Section 145 of the Internal Revenue Code of 1986 (defining qualified 501(c)(3) bond) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) BONDS ISSUED TO ACQUIRE RENEWABLE RESOURCES ON LAND SUBJECT TO CONSERVATION EASEMENT.—

''(1) IN GENERAL.—If—

''(A) the proceeds of any bond are used to acquire land (or a long-term lease thereof) together with any renewable resource associated with the land (including standing timber, agricultural crops, or water rights) from an unaffiliated person,

''(B) the land is subject to a conservation restriction—

''(i) which is granted in perpetuity to an unaffiliated person that is—

''(I) a 501(c)(3) organization, or

''(II) a Federal, State, or local government conservation organization,

''(ii) which meets the requirements of clauses (ii) and (iii)(II) of section 170(h)(4)(A),

''(iii) which exceeds the requirements of relevant environmental and land use statutes and regulations, and

''(iv) which obligates the owner of the land to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction,

''(C) a management plan which meets the requirements of the statutes and regulations referred to in subparagraph (B)(iii) is developed for the conservation of the renewable resources, and

''(D) such bond would be a qualified 501(c)(3) bond (after the application of paragraph (2)) but for the failure to use revenues derived by the 501(c)(3) organization from the sale, lease, or other use of such resource as otherwise required by this part,

such bond shall not fail to be a qualified 501(c)(3) bond by reason of the failure to so use such revenues if the revenues which are not used as otherwise required by this part are used in a manner consistent with the stated charitable purposes of the 501(c)(3) organization.

''(2) TREATMENT OF TIMBER, ETC.—

''(A) IN GENERAL.—For purposes of subsection (a), the cost of any renewable resource acquired with proceeds of any bond

described in paragraph (1) shall be treated as a cost of acquiring the land associated with the renewable resource and such land shall not be treated as used for a private business use because of the sale or leasing of the renewable resource to, or other use of the renewable resource by, an unaffiliated person to the extent that such sale, leasing, or other use does not constitute an unrelated trade or business, determined by applying section 513(a).

''(B) APPLICATION OF BOND MATURITY LIMITATION.—For purposes of section 147(b), the cost of any land or renewable resource acquired with proceeds of any bond described in paragraph (1) shall have an economic life commensurate with the economic and ecological feasibility of the financing of such land or renewable resource.

''(C) UNAFFILIATED PERSON.—For purposes of this subsection, the term 'unaffiliated person' means any person who controls not more than 20 percent of the governing body of another person.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

By Mr. ROCKEFELLER (for himself and Mr. REED):

S. 827. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2001; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, it gives me great pleasure and pride to introduce today the MediKids Health Insurance Act of 2001. I am joined by my colleague Representative Stark, who is introducing companion legislation in the House.

In 1997, we passed historic legislation which created the Children's Health Insurance Program. I was a proud sponsor of the CHIP legislation with our late-colleague Senator John Chafee. However, one thing which we have learned throughout the implementation process of CHIP is that while it provides a vehicle for insuring our nation's low-income children, it does not guarantee all of America's children health insurance coverage and access to affordable health care. I'm pleased to say that of the 26,000 West Virginia children without health insurance two years ago, according to the most recent state estimate nearly 20,000 have now enrolled in the CHIP program. But this is not enough. We can do better for our children to make sure they can count on access to the care they need to grow up healthy. It should not be so hard. Today, there remain more than 10 million children in America without health insurance, in spite of more and more children being enrolled in CHIP every day. Clearly, there is still much more that can and should be done to guarantee health coverage to all American children.

Today, I offer a solution to ensure that all of our nation's children have access to health care. The MediKids program, which I propose, would create a new Medicare-like program for children which is separate from Medicare and will have no financial impact on the existing program. Every child would be enrolled at birth, just as every American is enrolled in the Medicare program at age 65. This ensures that all children will have coverage, avoiding difficult problems related to outreach and enrollment, or state-to-state variations. MediKids is a simple, direct and comprehensive approach to dramatically improve the health insurance safety net for America's Children. Eligibility for the program would be phased in over five years, covering children from birth to 5 years of age in the first year, 6 to 10 in the second, 11 to 15 in the third, 16 to 20 in the fourth, and 21 and 22 in the fifth and final year. By 2008, the legislation would provide every child in America access to consistent, continuous health insurance coverage.

The benefits covered by the program would be very similar to those available to children under Medicaid now, including the screening and prevention services so critical to successful childhood development. The MediKids program would work in conjunction with CHIP and Medicaid, allowing children enrolled in those programs, and those children with private insurance coverage, to remain in those programs.

CHIP and Medicaid are important programs, and essential for the insurance coverage of children. However, even with perfect enrollment in CHIP and Medicaid, there would still be a great number of children without health insurance. This is partially due to our increasingly mobile society, where parents frequently change jobs and families often move from state to state. When this occurs there is often a lapse in health coverage. Also, families working their way out of welfare fluctuate between eligibility and ineligibility for means-tested assistance programs. Another reason for the number of uninsured children is that the cost of health insurance continues to increase, leaving many working parents unable to afford coverage for themselves or their families. All of this adds up to the fact that many of our children do not have the consistent and regular access to health care which they need to grow up healthy.

Under The MediKids program, all children would be enrolled automatically at birth, and have continuous, reliable health coverage from birth until their twenty-third birthday. A prescription drug benefit would be included as part of the program, and the Secretary of Health and Human Services will continue to develop age-appropriate benefits as needed. The legislation also contains provisions allowing the Secretary to review and update the benefits offered annually, with input from the pediatric community.

During the first few years of the program, the costs can be fully covered by public funds such as tobacco settlement monies, the budget surplus, or other funds upon which we may agree. Over this period of time, the Treasury Secretary will have the necessary time to develop a package of progressive, gradual tax changes to fund the program. Parents will be responsible for a small premium which will account for one-forth of annual average cost per child, and will be exempt from the premium should they have comparable health coverage for their children through private insurance or enrollment in other federal programs.

There will be no cost-sharing under the program for preventive and well child care, and there will be assistance for low-income families to meet their needs. Those families living at or below 150 percent of poverty will pay no premium and those living between 150 percent and 200 percent of poverty will receive a 50 percent discount on premiums. A family's premium obligation will be capped at 5 percent of its total income.

Children are inexpensive to insure, yet the benefits of doing so would be enormous for our country. We have an opportunity now to guarantee that future generations of children grow up more healthy and ready to succeed than any before them. I am pleased to announce that I am joined today by a number of organizations whose support has been critical to the cause of ensuring health coverage for all children. I thank the many national organizations that have already lent their support and endorsement to this important legislation. The American Academy Pediatrics and the Children's Defense Fund have already begun to actively push for the MediKids Health Insurance Act of 2001. I am so pleased to have the support of these and other organizations which have dedicated themselves to children and children's health care in America.

I learned a valuable lesson some thirty-five years ago as a VISTA volunteer in the small town of Emmons, West Virginia. I was taught that health care is not just something to be talked about, or debated here on the floor of the Senate. Health care is a fundamental right, its as necessary as food and shelter. I have learned this time and time again, and I have carried that lesson with me throughout my entire life in public service, as Chairman of the Pepper Commission on Comprehensive Health Care, and also on the National Commission on Children.

The growing number of uninsured in this country is a very serious problem. The fact that some 10 million children, our nation's most vulnerable population, do not have access to affordable health insurance today is not just unfair, it is downright immoral. In a nation as wealthy as ours, it is wrong that poverty at birth can mean lifelong illness or even early death, especially from easily treatable and preventable causes. What's more, children are the cheapest population in America to insure.

But as I have said time and time again, I also believe it is important to not lose sight of the ideal, and our capacity to reach that ideal, of the United States of America joining every

other industrialized nation by ensuring that its citizens have basic health insurance.

I believe that we must not lose sight of that great ideal which I have spoken about here today, that every American have access to affordable health care. The MediKids Health Insurance Act is a tangible step toward achieving that ideal. I offer this legislation to enlist my colleagues in an effort to insist that all of our nation's children are insured as quickly as possible. I ask my colleagues from both sides of the aisle to join as co-sponsors.

I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

S. 827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''MediKids Health Insurance Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; findings.
Sec. 2. Benefits for all children born after 2002.

''TITLE XXII—MEDIKIDS PROGRAM

''Sec. 2201. Eligibility.
''Sec. 2202. Benefits.
''Sec. 2203. Premiums.
''Sec. 2204. MediKids Trust Fund.
''Sec. 2205. Oversight and accountability.
''Sec. 2206. Addition of care coordination services.
''Sec. 2207. Administration and miscellaneous.
Sec. 3. MediKids premium.
Sec. 4. Refundable credit for cost-sharing expenses under MediKids program.
Sec. 5. Report on long-term revenues.

(c) FINDINGS.—Congress finds the following:

(1) More than 11 million American children are uninsured.

(2) Children who are uninsured receive less medical care and less preventive care and have a poorer level of health, which result in lifetime costs to themselves and to the entire American economy.

(3) Although SCHIP and Medicaid are successfully extending a health coverage safety net to a growing portion of the vulnerable low-income population of uninsured children, we now see that they alone cannot achieve 100 percent health insurance coverage for our nation's children due to inevitable gaps during outreach and enrollment, fluctuations in eligibility, and variations in access to private insurance at all income levels.

(4) As all segments of our society continue to become more and more transient, with many changes in employment over the working lifetime of parents, the need for a reliable safety net of health insurance which follows children across State lines, already a major problem for the children of migrant and seasonal farmworkers, will become a major concern for all families in the United States.

(5) The Medicare program has successfully evolved over the years to provide a stable, universal source of health insurance for the nation's disabled and those over age 65, and therefore provides a tested model for designing a program to reach out to America's children

(6) The problem of insuring 100 percent of all American children could be gradually solved by automatically enrolling all children born after December 31, 2002, in a program modeled after Medicare (and to be known as ''MediKids''), and allowing those children to be transferred into other equivalent or better insurance programs, including either private insurance, SCHIP, or Medicaid, if they are eligible to do so, but maintaining the child's default enrollment in MediKids for any times when the child's access to other sources of insurance is lost.

(7) A family's freedom of choice to use other insurers to cover children would not be interfered with in any way, and children eligible for SCHIP and Medicaid would continue to be enrolled in those programs, but the underlying safety net of MediKids would always be available to cover any gaps in insurance due to changes in medical condition, employment, income, or marital status, or other changes affecting a child's access to alternate forms of insurance.

(8) The MediKids program can be administered without impacting the finances or status of the existing Medicare program.

(9) The MediKids benefit package can be tailored to the special needs of children and updated over time.

(10) The financing of the program can be administered without difficulty by a yearly payment of affordable premiums through a family's tax filing (or adjustment of a family's earned income tax credit).

(11) The cost of the program will gradually rise as the number of children using MediKids as the insurer of last resort increases, and a future Congress always can accelerate or slow down the enrollment process as desired, while the societal costs for emergency room usage, lost productivity and work days, and poor health status for the next generation of Americans will decline.

(12) Over time 100 percent of American children will always have basic health insurance, and we can therefore expect a healthier, more equitable, and more productive society.

SEC. 2. BENEFITS FOR ALL CHILDREN BORN AFTER 2002.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

''TITLE XXII—MEDIKIDS PROGRAM

''SEC. 2201. ELIGIBILITY.

''(a) ELIGIBILITY OF INDIVIDUALS BORN AFTER DECEMBER 31, 2002; ALL CHILDREN UNDER 23 YEARS OF AGE IN SIXTH YEAR.—An individual who meets the following requirements with respect to a month is eligible to enroll under this title with respect to such month:

''(1) AGE.—

''(A) FIRST YEAR.—During the first year in which this title is effective, the individual has not attained 6 years of age.

''(B) SECOND YEAR.—During the second year in which this title is effective, the individual has not attained 11 years of age.

''(C) THIRD YEAR.—During the third year in which this title is effective, the individual has not attained 16 years of age.

''(D) FOURTH YEAR.—During the fourth year in which this title is effective, the individual has not attained 21 years of age.

''(E) FIFTH AND SUBSEQUENT YEARS.—During the fifth year in which this title is effective and each subsequent year, the individual has not attained 23 years of age.

''(2) CITIZENSHIP.—The individual is a citizen or national of the United States or is permanently residing in the United States under color of law.

''(b) ENROLLMENT PROCESS.—An individual may enroll in the program established under this title only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals who are born in the United States after December 31, 2002, are deemed to be enrolled at the time of birth and a parent or guardian of such an individual is permitted to pre-enroll in the month prior to the expected month of birth;

''(2) individuals who are born outside the United States after such date and who become eligible to enroll by virtue of immigration into (or an adjustment of immigration status in) the United States are deemed enrolled at the time of entry or adjustment of status;

''(3) eligible individuals may otherwise be enrolled at such other times and manner as the Secretary shall specify, including the use of outstationed eligibility sites as described in section 1902(a)(55)(A) and the use of presumptive eligibility provisions like those described in section 1920A; and

''(4) at the time of automatic enrollment of a child, the Secretary provides for issuance to a parent or custodian of the individual a card evidencing coverage under this title and for a description of such coverage.

The provisions of section 1837(h) apply with respect to enrollment under this title in the same manner as they apply to enrollment under part B of title XVIII.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this title shall begin as follows, but in no case earlier than January 1, 2003:

''(A) In the case of an individual who is enrolled under paragraph (1) or (2) of subsection (b), the date of birth or date of obtaining appropriate citizenship or immigration status, as the case may be.

''(B) In the case of an another individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under subsection (a), the first day of such month of eligibility.

''(C) In the case of an another individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such subsection, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this title unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) EXPIRATION OF ELIGIBILITY.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated because the individual no longer meets the requirements of subsection (a) (whether because of age or change in immigration status).

''(e) ENTITLEMENT TO MEDIKIDS BENEFITS FOR ENROLLED INDIVIDUALS.—An individual enrolled under this section is entitled to the benefits described in section 2202.

''(f) LOW-INCOME INFORMATION.—At the time of enrollment of a child under this title, the Secretary shall make an inquiry as to whether or not the family income of the family that includes the child is less than 150 percent of the poverty line for a family of the size involved. If the family income is

below such level, the Secretary shall encode in the identification card issued in connection with eligibility under this title a code indicating such fact. The Secretary also shall provide for a toll-free telephone line at which providers can verify whether or not such a child is in a family the income of which is below such level.

''(g) CONSTRUCTION.—Nothing in this title shall be construed as requiring (or preventing) an individual who is enrolled under this section from seeking medical assistance under a State medicaid plan under title XIX or child health assistance under a State child health plan under title XXI.

''SEC. 2202. BENEFITS.

''(a) SECRETARIAL SPECIFICATION OF BENEFIT PACKAGE.—

''(1) IN GENERAL.—The Secretary shall specify the benefits to be made available under this title consistent with the provisions of this section and in a manner designed to meet the health needs of enrollees.

''(2) UPDATING.—The Secretary shall update the specification of benefits over time to ensure the inclusion of age-appropriate benefits to reflect the enrollee population.

''(3) ANNUAL UPDATING.—The Secretary shall establish procedures for the annual review and updating of such benefits to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

''(4) INPUT.—The Secretary shall seek the input of the pediatric community in specifying and updating such benefits.

''(5) LIMITATION ON UPDATING.—In no case shall updating of benefits under this subsection result in a failure to provide benefits required under subsection (b).

''(b) INCLUSION OF CERTAIN BENEFITS.—

''(1) MEDICARE CORE BENEFITS.—Such benefits shall include (to the extent consistent with other provisions of this section) at least the same benefits (including coverage, access, availability, duration, and beneficiary rights) that are available under parts A and B of title XVIII.

''(2) ALL REQUIRED MEDICAID BENEFITS.—Such benefits shall also include all items and services for which medical assistance is required to be provided under section 1902(a)(10)(A) to individuals described in such section, including early and periodic screening, diagnostic services, and treatment services.

''(3) INCLUSION OF PRESCRIPTION DRUGS.—Such benefits also shall include (as specified by the Secretary) prescription drugs and biologicals.

''(4) COST-SHARING.—

''(A) IN GENERAL.—Subject to subparagraph (B), such benefits also shall include the cost-sharing (in the form of deductibles, coinsurance, and copayments) applicable under title XVIII with respect to comparable items and services, except that no cost-sharing shall be imposed with respect to early and periodic screening and diagnostic services included under paragraph (2).

''(B) NO COST-SHARING FOR LOWEST INCOME CHILDREN.—Such benefits shall not include any cost-sharing for children in families the income of which (as determined for purposes of section 1905(p)) does not exceed 150 percent of the official income poverty line (referred to in such section) applicable to a family of the size involved.

''(C) REFUNDABLE CREDIT FOR COST-SHARING FOR OTHER LOW-INCOME CHILDREN.—For a refundable credit for cost-sharing in the case of children in certain families, see section 35 of the Internal Revenue Code of 1986.

''(c) PAYMENT SCHEDULE.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under this title. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied under parts A and B of title XVIII.

''(d) INPUT.—The Secretary shall specify such benefits and payment schedules only after obtaining input from appropriate child health providers and experts.

''(e) ENROLLMENT IN HEALTH PLANS.—The Secretary shall provide for the offering of benefits under this title through enrollment in a health benefit plan that meets the same (or similar) requirements as the requirements that apply to Medicare+Choice plans under part C of title XVIII. In the case of individuals enrolled under this title in such a plan, the Medicare+Choice capitation rate described in section 1853(c) shall be adjusted in an appropriate manner to reflect differences between the population served under this title and the population under title XVIII.

''SEC. 2203. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) IN GENERAL.—The Secretary shall, during September of each year (beginning with 2002), establish a monthly MediKids premium. Subject to paragraph (2), the monthly MediKids premium for a year is equal to 1/12 of the annual premium rate computed under subsection (b).

''(2) ELIMINATION OF MONTHLY PREMIUM FOR DEMONSTRATION OF EQUIVALENT COVERAGE (INCLUDING COVERAGE UNDER LOW-INCOME PROGRAMS).—The amount of the monthly premium imposed under this section for an individual for a month shall be zero in the case of an individual who demonstrates to the satisfaction of the Secretary that the individual has basic health insurance coverage for that month. For purposes of the previous sentence enrollment in a medicaid plan under title XIX, a State child health insurance plan under title XXI, or under the medicare program under title XVIII is deemed to constitute basic health insurance coverage described in such sentence.

''(b) ANNUAL PREMIUM.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 2201(a)(1) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) ANNUAL PREMIUM.—Subject to subsection (d), the annual premium under this subsection for months in a year is equal to 25 percent of the average, annual per capita amount estimated under paragraph (1) for the year.

''(c) PAYMENT OF MONTHLY PREMIUM.—

''(1) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, subject to subsection (d), the monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(2) COLLECTION THROUGH TAX RETURN.—For provisions providing for the payment of monthly premiums under this subsection, see section 59B of the Internal Revenue Code of 1986.

''(3) PROTECTIONS AGAINST FRAUD AND ABUSE.—The Secretary shall develop, in coordination with States and other health insurance issuers, administrative systems to ensure that claims which are submitted to more than one payor are coordinated and duplicate payments are not made.

''(d) REDUCTION IN PREMIUM FOR CERTAIN LOW-INCOME FAMILIES.—For provisions reducing the premium under this section for certain low-income families, see section 59B(c) of the Internal Revenue Code of 1986.

''SEC. 2204. MEDIKIDS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'MediKids Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 2203 shall be transferred to the Trust Fund.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to title XXII;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this title;

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this title; and

''(D) the Board of Trustees of the MediKids Trust Fund shall be the same as the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund.

''SEC. 2205. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the MediKids Trust Fund under section 2204(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this title to maintain financial solvency of the program under this title.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this title. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this title.

''SEC. 2206. INCLUSION OF CARE COORDINATION SERVICES.

''(a) IN GENERAL.—

''(1) PROGRAM AUTHORITY.—The Secretary, beginning in 2003, may implement a care coordination services program in accordance with the provisions of this section under which, in appropriate circumstances, eligible individuals may elect to have health care services covered under this title managed and coordinated by a designated care coordinator.

''(2) ADMINISTRATION BY CONTRACT.—The Secretary may administer the program under this section through a contract with an appropriate program administrator.

''(3) COVERAGE.—Care coordination services furnished in accordance with this section shall be treated under this title as if they were included in the definition of medical

and other health services under section 1861(s) and benefits shall be available under this title with respect to such services without the application of any deductible or coinsurance.

''(b) ELIGIBILITY CRITERIA; IDENTIFICATION AND NOTIFICATION OF ELIGIBLE INDIVIDUALS.—

''(1) INDIVIDUAL ELIGIBILITY CRITERIA.—The Secretary shall specify criteria to be used in making a determination as to whether an individual may appropriately be enrolled in the care coordination services program under this section, which shall include at least a finding by the Secretary that for cohorts of individuals with characteristics identified by the Secretary, professional management and coordination of care can reasonably be expected to improve processes or outcomes of health care and to reduce aggregate costs to the programs under this title.

''(2) PROCEDURES TO FACILITATE ENROLLMENT.—The Secretary shall develop and implement procedures designed to facilitate enrollment of eligible individuals in the program under this section.

''(c) ENROLLMENT OF INDIVIDUALS.—

''(1) SECRETARY'S DETERMINATION OF ELIGIBILITY.—The Secretary shall determine the eligibility for services under this section of individuals who are enrolled in the program under this section and who make application for such services in such form and manner as the Secretary may prescribe.

''(2) ENROLLMENT PERIOD.—

''(A) EFFECTIVE DATE AND DURATION.—Enrollment of an individual in the program under this section shall be effective as of the first day of the month following the month in which the Secretary approves the individual's application under paragraph (1), shall remain in effect for one month (or such longer period as the Secretary may specify), and shall be automatically renewed for additional periods, unless terminated in accordance with such procedures as the Secretary shall establish by regulation. Such procedures shall permit an individual to disenroll for cause at any time and without cause at re-enrollment intervals.

''(B) LIMITATION ON REENROLLMENT.—The Secretary may establish limits on an individual's eligibility to reenroll in the program under this section if the individual has disenrolled from the program more than once during a specified time period.

''(d) PROGRAM.—The care coordination services program under this section shall include the following elements:

''(1) BASIC CARE COORDINATION SERVICES.—

''(A) IN GENERAL.—Subject to the cost-effectiveness criteria specified in subsection (b)(1), except as otherwise provided in this section, enrolled individuals shall receive services described in section 1905(t)(1) and may receive additional items and services as described in subparagraph (B).

''(B) ADDITIONAL BENEFITS.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to individuals enrolled in the program under this section (subject to an assessment by the care coordinator of an individual's circumstance and need for such benefits) in order to encourage enrollment in, or to improve the effectiveness of, such program.

''(2) CARE COORDINATION REQUIREMENT.—Notwithstanding any other provision of this title, the Secretary may provide that an individual enrolled in the program under this section may be entitled to payment under this title for any specified health care items or services only if the items or services have been furnished by the care coordinator, or coordinated through the care coordination services program. Under such provision, the Secretary shall prescribe exceptions for emergency medical services as described in section 1852(d)(3), and other exceptions determined by the Secretary for the delivery of timely and needed care.

''(e) CARE COORDINATORS.—

''(1) CONDITIONS OF PARTICIPATION.—In order to be qualified to furnish care coordination services under this section, an individual or entity shall—

''(A) be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) meeting such conditions as the Secretary may specify;

''(B) have entered into a care coordination agreement; and

''(C) meet such criteria as the Secretary may establish (which may include experience in the provision of care coordination or primary care physician's services).

''(2) AGREEMENT TERM; PAYMENT.—

''(A) DURATION AND RENEWAL.—A care coordination agreement under this subsection shall be for one year and may be renewed if the Secretary is satisfied that the care coordinator continues to meet the conditions of participation specified in paragraph (1).

''(B) PAYMENT FOR SERVICES.—The Secretary may negotiate or otherwise establish payment terms and rates for services described in subsection (d)(1).

''(C) LIABILITY.—Case coordinators shall be subject to liability for actual health damages which may be suffered by recipients as a result of the care coordinator's decisions, failure or delay in making decisions, or other actions as a care coordinator.

''(D) TERMS.—In addition to such other terms as the Secretary may require, an agreement under this section shall include the terms specified in subparagraphs (A) through (C) of section 1905(t)(3).

''SEC. 2207. ADMINISTRATION AND MISCELLANEOUS.

''(a) IN GENERAL.—Except as otherwise provided in this title—

''(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, carriers, and fiscal intermediaries, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

''(2) individuals enrolled under this title shall be treated for purposes of title XVIII as though the individual were entitled to benefits under part A and enrolled under part B of such title;

''(3) benefits described in section 2202 that are payable under this title to such individuals shall be paid in a manner specified by the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII);

''(4) provider participation agreements under title XVIII shall apply to enrollees and benefits under this title in the same manner as they apply to enrollees and benefits under title XVIII; and

''(5) individuals entitled to benefits under this title may elect to receive such benefits under health plans in a manner, specified by the Secretary, similar to the manner provided under part C of title XVIII.

''(b) COORDINATION WITH MEDICAID AND SCHIP.—Notwithstanding any other provision of law, individuals entitled to benefits for items and services under this title who also qualify for benefits under title XIX or XXI or any other Federally funded program may continue to qualify and obtain benefits under such other title or program, and in such case such an individual shall elect either—

''(1) such other title or program to be primary payor to benefits under this title, in which case no benefits shall be payable under this title and the monthly premium under section 2203 shall be zero; or

''(2) benefits under this title shall be primary payor to benefits provided under such program or title, in which case the Secretary shall enter into agreements with States as may be appropriate to provide that, in the case of such individuals, the benefits under titles XIX and XXI or such other program (including reduction of cost-sharing) are provided on a 'wrap-around' basis to the benefits under this title.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking '' and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund established by title XVIII''.

(3) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', and

(B) by adding at the end the following:

''(8) ADJUSTMENT FOR MEDIKIDS.—In applying this subsection with respect to individuals entitled to benefits under title XXII, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such title and the population under parts A and B.''.

(c) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS FOR CHILDREN.—

(1) IN GENERAL.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a))—

(A) the State may not reduce standards of eligibility, or benefits, provided under its State medicaid plan under title XIX of the Social Security Act or under its State child health plan under title XXI of such Act for individuals under 23 years of age below such standards of eligibility, and benefits, in effect on the date of the enactment of this Act; and

(B) the State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that any savings in State expenditures under title XIX or XXI of the Social Security Act that results from children from enrolling under title XXII of such Act shall be used in a manner that improves services to beneficiaries under title XIX of such Act, such as through increases in provider payment rates, expansion of eligibility, improved nurse and nurse aide staffing and improved inspections of nursing facilities, and coverage of additional services.

(2) MEDIKIDS AS PRIMARY PAYOR.—In applying title XIX of the Social Security Act, the MediKids program under title XXII of such Act shall be treated as a primary payor in cases in which the election described in section 2207(b)(2) of such Act, as added by subsection (a), has been made.

(d) EXPANSION OF MEDPAC MEMBERSHIP TO 19.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking ''17'' and inserting ''19''; and

(B) in paragraph (2)(B), by inserting ''experts in children's health,'' after ''other health professionals,''.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under subsection (a)(1) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2002.

SEC. 3. MEDIKIDS PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—MEDIKIDS PREMIUM

''Sec. 59B. MediKids premium.

"SEC. 59B. MEDIKIDS PREMIUM.

''(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other tax imposed by this subtitle) a MediKids premium for the taxable year.

''(b) INDIVIDUALS SUBJECT TO PREMIUM.—

''(1) IN GENERAL.—This section shall apply to an individual if the taxpayer has a MediKid at any time during the taxable year.

''(2) MEDIKID.—For purposes of this section, the term 'MediKid' means, with respect to a taxpayer, any individual with respect to whom the taxpayer is required to pay a premium under section 2203(c) of the Social Security Act for any month of the taxable year.

''(c) AMOUNT OF PREMIUM.—For purposes of this section, the MediKids premium for a taxable year is the sum of the monthly premiums under section 2203 of the Social Security Act for months in the taxable year.

''(d) EXCEPTIONS BASED ON ADJUSTED GROSS INCOME.—

''(1) EXEMPTION FOR VERY LOW-INCOME TAXPAYERS.—

''(A) IN GENERAL.—No premium shall be imposed by this section on any taxpayer having an adjusted gross income not in excess of the exemption amount.

''(B) EXEMPTION AMOUNT.—For purposes of this paragraph, the exemption amount is—

''(i) $17,415 in the case of a taxpayer having 1 MediKid,

''(ii) $21,945 in the case of a taxpayer having 2 MediKids,

''(iii) $26,475 in the case of a taxpayer having 3 MediKids, and

''(iv) $31,005 in the case of a taxpayer having 4 or more MediKids.

''(C) PHASEOUT OF EXEMPTION.—In the case of a taxpayer having an adjusted gross income which exceeds the exemption amount but does not exceed twice the exemption amount, the premium shall be the amount which bears the same ratio to the premium which would (but for this subparagraph) apply to the taxpayer as such excess bears to the exemption amount.

''(D) INFLATION ADJUSTMENT OF EXEMPTION AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2001, each dollar amount contained in subparagraph (C) shall be increased by an amount equal to the product of—

''(i) such dollar amount, and

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

''(2) PREMIUM LIMITED TO 5 PERCENT OF ADJUSTED GROSS INCOME.—In no event shall any taxpayer be required to pay a premium under this section in excess of an amount equal to 5 percent of the taxpayer's adjusted gross income.

''(e) COORDINATION WITH OTHER PROVISIONS.—

''(1) NOT TREATED AS MEDICAL EXPENSE.—For purposes of this chapter, any premium paid under this section shall not be treated as expense for medical care.

''(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The premium paid under this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.

''(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the premium paid under this section shall be treated as if it were a tax imposed by section 1.''.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 of such Code is amended by inserting after paragraph (9) the following new paragraph:

''(10) Every individual liable for a premium under section 59B.''.

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Part VIII. MediKids premium.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 2002, in taxable years ending after such date.

SEC. 4. REFUNDABLE CREDIT FOR COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who has a MediKid (as defined in section 59B) at any time during the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 50 percent of the amount paid by the taxpayer during the taxable year as cost-sharing under section 2202(b)(4) of the Social Security Act.

''(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit which would (but for this subsection) be allowed under this section for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for such taxable year over the exemption amount (as defined in section 59B(d)) bears to such exemption amount.''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ''or from section 35 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 35. Cost-sharing expenses under MediKids program.

''Sec. 36. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 5. REPORT ON LONG-TERM REVENUES.

Within one year after the date of the enactment of this Act, the Secretary of the Treasury shall propose a gradual schedule of progressive tax changes to fund the program under title XXII of the Social Security Act, as the number of enrollees grows in the outyears.

SUMMARY OF THE MEDIKIDS HEALTH INSURANCE ACT OF 2001

The MediKids Health Insurance Act provides health insurance for all children in the United States regardless of family income level by 2008. The program is modeled after Medicare, but the benefits are targeted toward children. Families below 150 percent of poverty pay no premium or copays, while those between 150 and 300 percent of poverty pay a graduated premium up to 5 percent of their income and receive a graduated refundable tax credit for cost sharing expenses.

The MediKids enrollment process is simple with no re-determination hoops to jump through because it is not means tested. MediKids follows children across state lines when families move, and covers them until their parents can enroll them in a new insurance program. Moreover, MediKids fills the gaps when families climbing out of poverty become ineligible for means-tested programs. It provides security for children until their parents can obtain reliable health insurance coverage.

ENROLLMENT

Every child born after 2002 is automatically enrolled in MediKids, and those children already born are enrolled over a 5–year phase-in as described below. Children who immigrate to this country are enrolled when they receive their immigration cards. Materials describing the program's benefits, along with a MediKids insurance card, are issued to the parent(s) or legal guardian(s) of each child. Once enrolled, children remain enrolled in MediKids until they reach the age of 23.

Parents may choose to enroll their children in private plans or government programs such as Medicaid or S–CHIP. During periods of equivalent alternative coverage, the MediKids premium is waived. However, if a lapse in other insurance coverage occurs, MediKids automatically covers the children's health insurance needs (and a premium will be owed for those months).

PHASE-IN

Year 1 (2003) = the child has not attained age 6.

Year 2 (2004) = the child has not attained age 11.

Year 3 (2005) = the child has not attained age 16

Year 4 (2006) = the child has not attained age 21.

Year 5 (2007) = the child has not attained age 23.

BENEFITS

The benefit package is based on the Medicare and the Medicaid Early and Periodic Screening. Diagnosis, and Treatment (EPSDT) benefits for children, and includes prescription drugs. The benefits will be reviewed annually and updated by the Secretary of Health and Human Services to reflect age-appropriate benefits as needed with input from the pediatric community.

PREMIUMS, DEDUCTIBLES, AND COPAYS

Families up to 150 percent of poverty pay no premiums or copays. Families between 150 and 300 percent of poverty pay a graduated premium up to 5 percent of their income and

receive a graduated refundable tax credit for cost sharing expenses. Parents 300 percent of poverty are responsible for a small premium equal to one fourth of the average annual cost per child. Premiums are collected at the time of income tax filing. There is no cost sharing for preventive and well childcare for any children.

FINANCING

Congress would need to determine initial funding. In future years, the Secretary of Treasury would develop a package of progressive, gradual tax changes to fund the program, as the number of enrollees grows.

STATES

Medicaid and S–CHIP are not altered by MediKids. These programs remain the safety net for children until MediKids is fully implemented and appropriately modified to best serve our nation's children. Once MediKids is fully operational, Congress can revisit the role of these programs in covering children.

To the extent that the states save money from the enrollment of children into MediKids, states are required to maintain those funding levels in other programs and services directed toward the Medicaid population. This can include expanding eligibility or offering additional services. For example, states could expand eligibility for parents and single individuals, increase payment rates to providers, or enhance quality initiatives in nursing homes.

By Mr. LIEBERMAN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. HUTCHINSON, Mr. DODD, Mrs. CLINTON, Ms. CANTWELL, Mr. CARPER, Mr. DORGAN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. AKAKA, and Ms. MIKULSKI):

S. 828. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, I am pleased today to join a bipartisan coalition of Senators in introducing environmentally friendly legislation to encourage the use of fuel cells, a clean and cutting-edge energy source. If adopted, this bill would provide tax incentives to consumers for purchasing residential and commercial fuel cell systems to power their electricity. The $1,000-per-kilowatt tax credit applies to all types of stationary fuel cell systems and would be applicable for 5 years. This is a Senate companion piece to legislation introduced in the House of Representatives by Representative NANCY JOHNSON last month.

With oil and gas prices now reaching record highs, I believe fuel cells are one excellent answer to our heightened energy demand and dependence on foreign oil. The benefits of fuel cell technology are many. They are a nearly pollution-free power supply because they operate without combustion; they can run on any hydrogen-rich source, including propane, natural gas, methane or diesel; they can operate independently of a power grid, which is ideal for remote locations, and they provide highly reliable, uninterrupted power, making them very attractive for applications highly sensitive to power interruptions. Currently they are being used at a variety of locations, including a New York City police station in Central Park, a major postal facility in Alaska, a hotel on Mohegan tribal lands in Connecticut, and in a hospital in California.

Fuel cells have been successfully used since the 1960s. Initially they were developed for space applications and have provided all of the water and electricity needs in every manned U.S. space mission, including the Apollo and Gemini spacecraft. Since this time, they have been developed for a wide variety of other applications, including commercial, residential, and transportation uses.

I am pleased to join Senators SNOWE, SCHUMER, DODD, HUTCHINSON, CLINTON, CANTWELL, CARPER, DORGAN, LEAHY, LEVIN, HARKIN, AKAKA, and MIKULSKI on this important bill.

Ms. SNOWE. Mr. President, I rise today with my colleague from Connecticut Senator LIEBERMAN, to introduce a bill that will promote the expanded use of an environmentally sound and efficient energy technology, fuel cell power.

We all agree with President Bush that we have a crisis situation, America's energy future is bleak. Portions of our country are experiencing rolling blackouts, fuel prices are skyrocketing, America's dependence on imported oil reached a new high of over 60 percent in recent months, and our search for additional fossil fuels threatens the sanctity of protected wilderness areas. Now is the time to promote long term solutions such as fuel cell technology to reduce our fossil fuel consumption and maintain a steady supply of energy.

Fuel cells are not a futuristic dream, every manned U.S. space mission has relied upon fuel cells for electricity and drinking water. From a New York city police station to a postal facility in Alaska to hospitals, schools, banks, military installations, and manufacturing facilities around the world, fuel cell units are efficiently generating dependable power 24 hours a day, seven days a week for upwards of 5 years with only routine maintenance.

Fuel cell technology offers a clean, secure, efficient, and dependable source of energy that should be part of our national energy strategy. Not only do fuel cells deliver the high quality, reliable power that is considered an absolute necessity for many portions of our society, they reduce power grid demand while improving grid flexibility. Fuel cells are an ideal energy source to address America's pressing energy needs.

Using an electro-chemical reaction to convert energy from hydrogen-rich fuel sources into electricity, fuel cells reduce the need for fossil fuel consumption. And, since no combustion is involved, fuel cells produce virtually no air pollution and significantly reduce carbon dioxide emissions. In fact, a 200 kilowatt fuel cell power plant produces less than one ounce of pollutants for every 1,000 kilowatt hours of electricity it yields. In comparison, the average American fossil fuel plant produces nearly 25 pounds of pollutants to generate the same 1,000 kilowatt hours of electricity. That is 400 times the amount of the fuel cell power plant.

However, it is difficult for consumers to take advantage of fuel cells because as with any new technology, the introductory price is high. To create the market incentives necessary to speed the commercialization of this technology, our legislation provides a $1,000 per kilowatt stationary fuel cell tax credit for power plants that have an electrical generation efficiency of 30 percent or higher.

By lowering the initial price for consumers, market introduction and production volume of fuel cells will be accelerated with the end result being a significant reduction in manufacturing costs. The decrease in price would enable even more consumers to use the one of the cleanest, most reliable and most efficient means to generate electricity.

This fuel cell tax credit is designed to benefit the widest range of potential fuel cell customers and manufacturers with a meaningful incentive for the purchase of fuel cells for residential and commercial use while minimizing the budget impact to $500 million over the 5-year life of the program. I hope my colleagues will agree that an annual cost of $100 million is a small price to pay for a reliable source of power that will benefit the environment and reduce our nation's dependence on foreign oil supplies.

At a time when power shortages and interruptions are becoming more prevalent, we must increase our investment and commitment to non-traditional energy sources such as fuel cells. The reliable, combustion-free power fuel cells provide is a sensible alternative that is available today. I urge my colleagues to support us in the Fuel Cell Tax Credit.

By Mr. BROWNBACK (for himself, Mr. CLELAND, Mr. SANTORUM, Mr. LOTT, Mrs. CLINTON, Mr. REID, Mr. DODD, Mr. MILLER, and Mr. EDWARDS):

S. 829. A bill to establish the National Museum of African American History and Culture within the Smithsonian Institution; to the Committee on Rules and Administration.

Mr. BROWNBACK. Mr. President, I am honored to introduce legislation, today, that creates the ''National Museum of African American History and Culture.'' I along with Senators MAX CLELAND, RICH SANTORUM, Majority Leader LOTT, HILLARY CLINTON, HARRY REID, CHRISTOPHER DODD, ZELL MILLER, and JOHN EDWARDS are committed to passing this legislation this year.

One of the most important chapters in our national story of human freedom and dignity is the history and legacy of the African American march toward freedom, legal equality and full participation in American Society. Yet in our

nation's front yard, the National Mall, there is no museum set aside to honor this legacy.

As a Kansan, I feel a special connection to honoring the legacy of African-Americans. Kansas, as you know, not only played a significant role in the Civil War but also was chosen by many African-American families as a place to began their new life of freedom and prosperity in the ''Exodus to Kansas.''

This is just one part of the incredible history of African Americans that must be told on a national level. We have over 200 wonderful African-American history museums across the nation that tell portions of the African-American story. However, this legacy must be showcased at a national level.

That is why I am here today with my colleagues introducing this legislation to create the National Museum of African-American history and culture within the Smithsonian Institution, a premier organization, which represents the best museums in the nation. We believe it is vitally important that the Smithsonian, the world's leading museum organization, provide its expertise in putting this facility and its programs together.

This project has brought together a very broad and bicameral coalition that stood with us today during the press conference to announce the introduction of this bill. I would like to personally thank Pastor Chuck Singleton, of Loveland Church in California, as well as Robert Johnson, of B.E.T., Dorothy Height of the National Council of Negro Women, and Phyllis Berry Myers, of the Center for New Black Leadership for joining with us to support this legislation today.

We do not pretend that our legislation is a cure-all for the problem of racial division. It is, however, an important and productive step toward healing our nation's racial wounds. I believe that this museum will both celebrate African-American achievement and serve as a landmark of national conscience on the historical facts of slavery and the civil rights struggle.

We have an extraordinary opportunity before us—a chance to learn, understand and remember together our nation's history and to honor the significant contribution of African Americans to our history and culture.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Museum of African American History and Culture Act of 2001''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Over the history of our Nation, the United States has grown into a symbol of democracy and freedom around the world, and the legacy of African Americans is rooted in the very fabric of our Nation's democracy and freedom.

(2) There exists no national museum within the Smithsonian Institution located on the National Mall that is devoted to the documentation of African American life, art, history, and culture and that encompasses on a national level, the period of slavery, the era of reconstruction, the Harlem renaissance, the civil rights movement, and beyond.

(3) Slavery was an accepted practice in this Nation, authorized by the Government through legislation such as the fugitive slave law of 1793 (1 Stat. 302) and sanctioned by the Supreme Court in the Dred Scott decision (Scott v. Sanford, 60 U.S. 393 (1857)).

(4) Those African Americans who suffered under slavery and their descendants show us the strength of the human character and provide us with a model of courage, commitment, and perseverance. A national museum dedicated to the history of and commemorating those who suffered the grave injustice of slavery in this country will help in ''binding our Nation's wounds'' rooted in slavery and will allow all Americans to understand the past and honor the history of all Americans.

(5) Leaders of the African American community in the 1950s and 1960s led this Nation in the civil rights movement with the intent of ending discrimination against African Americans. During this period, many African American churches were destroyed and countless individuals involved in this movement were often beaten and killed. Through the devotion and sacrifice of those leaders, the civil rights movement made great strides in ensuring equality for African Americans in this country.

(6) African Americans have enriched the cultural make-up of the United States by their contributions in the areas of science, medicine, the arts and humanities, sports, music, and dance.

(7) Preserving this rich record of the experiences of African Americans, studying their experiences, and presenting those experiences through exhibits to the public would be of great educational and social value.

(8) The creation of a National Museum of African American History and Culture located on the National Mall in the District of Columbia and administered by the Smithsonian Institution's Board of Regents was endorsed in 1991 by a unanimous vote by the Smithsonian Institution's Board of Regents.

(9) The Smithsonian African American Institutional Study recommended that the National Museum of African American History and Culture be established in the Arts and Industries Building of the Smithsonian Institution.

(10) Although the Smithsonian Institution has had some success in focusing on African American history and culture, the programming on African American history and culture has been occasional and episodic.

(11) A National Museum of African American History and Culture will provide a continued and consistent African American presence on the National Mall.

(12) The National Museum of African American History and Culture will be dedicated to the collection, preservation, research, and exhibition of African American historical and cultural material reflecting the breadth and depth of the experiences of persons of African descent living in the United States.

(13) The National Museum of African American History and Culture established by this Act will coordinate the collection of material related to African Americans, which is rapidly disappearing due to a lack of resources and trained professionals engaged in preservation.

(14) The work of the National Museum of African American History and Culture will be, fundamentally, the same as the work of all museums in the United States that reflect and express the experiences of the people of the United States in an inclusive manner.

SEC. 3. ESTABLISHMENT OF THE NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution the National Museum of African American History and Culture (hereafter referred to in this Act as the ''Museum''), and the Smithsonian Institution shall maintain and administer the Museum.

(b) PURPOSE.—The purpose of the Museum is to provide for—

(1) the collection, study, and creation of scholarship relating to the African American diaspora that encompasses slavery, the era of reconstruction, the Harlem renaissance, the civil rights movement, and beyond;

(2) the creation and maintenance of permanent and temporary exhibits documenting American slavery and African American life, art, history, and culture from slavery and the era of reconstruction to the Harlem renaissance, the civil rights movement, and beyond;

(3) the collection and study of artifacts and documents relating to African American life, art, history, and culture and the African diaspora;

(4) the establishment of programs in cooperation with other museums, historical societies, educational institutions, and other organizations that promote the understanding of modern day practices of slavery throughout the world;

(5) collaboration between the Museum and other African American museums, historically black colleges and universities, and other museums, historical societies, educational institutions, and other organizations that promote the study of the African diaspora including collaboration regarding—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections; and

(C) participation in the training of museum professionals; and

(6) leadership and commitment to historical accuracy in the study, education, and exhibition of African American life, art, history, and culture in the museum and throughout the Nation.

SEC. 4. COUNCIL.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the National Museum of African American History and Culture Council (hereinafter referred to in this Act as the ''Council'').

(b) DUTIES.—

(1) IN GENERAL.—The Council, subject to subsection (l) and to the general policies of the Board of Regents of the Smithsonian Institution (hereafter referred to in this Act as the ''Board of Regents''), shall have sole authority to—

(A) solicit, accept, use, and dispose of gifts, bequests, and devises of services and property, both real and personal, for the purpose of aiding and facilitating the work of the Museum or the Council;

(B) establish policy with respect to the utilization of the collections and resources of the Museum, including policies on programming, education, exhibitions, and research with respect to life, art, and culture of African Americans, the role of African Americans in the history of the United States, from slavery to the present, and the contributions of African Americans to society;

(C) purchase, accept, borrow, and otherwise acquire artifacts and other property for addition to the collections of the Museum;

(D) provide for restoration, preservation, and maintenance of the collections of the Museum;

(E) loan, exchange, sell, and otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for programs carried out under section 6; and

(F) contract with and compensate Federal Government and private agencies or persons for supplies and services that would aid the work of the Museum, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(2) ADMINISTRATION.—Subject to subsection (l), the Board of Regents shall advise and assist the Council on all matters relating to the administration, operation, maintenance, and preservation of the Museum.

(3) ANNUAL REPORT TO CONGRESS.—Subject to subsection (l), the Council shall submit to Congress an annual report that—

(A) provides a detailed account of the activities of the Council and the Museum;

(B) recommends an annual budget for the Council and the Museum; and

(C) identifies the future needs of the Council and the Museum.

(4) ANNUAL REPORT TO THE BOARD OF REGENTS.—Subject to subsection (l), the Council shall report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

(c) COMPOSITION AND APPOINTMENT.—

(1) IN GENERAL.—The Council shall be composed of 25 voting members as provided under paragraph (2) and 7 honorary nonvoting members as provided under paragraph (3).

(2) VOTING MEMBERS.—The Council shall include the following voting members:

(A) The Secretary of the Smithsonian Institution.

(B) An Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents.

(C) 13 individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American history and culture appointed as follows:

(i) 5 individuals shall be appointed by the President from a list of nominees provided by the President pro tempore of the Senate in consultation with the majority and minority leaders of the Senate.

(ii) 5 individuals shall be appointed by the President from a list of nominees provided by the Speaker of the House of Representatives in consultation with the majority and minority leaders of the House of Representatives.

(iii) 3 individuals shall be appointed by the President.

(D) 10 individuals appointed as follows:

(i) 4 individuals shall be appointed by the President from a list of nominees, provided by the President pro tempore of the Senate in consultation with the majority and minority leaders of the Senate, and recommended by the Association of African American Museums, the National African American Museum and Culture Complex, historically black colleges and universities, and cultural or other organizations committed to the advancement of knowledge of African American life, art, history and culture.

(ii) 4 individuals shall be appointed by the President from a list of nominees, provided by the Speaker of the House of Representatives in consultation with the majority and minority leaders of the House of Representatives, and recommended by the Association of African American Museums, the National African American Museum and Culture Complex, historically black colleges and universities, and cultural or other organizations committed to the advancement of knowledge of African American life, art, history and culture.

(iii) 2 individuals shall be appointed by the President.

(3) HONORARY NONVOTING MEMBERS.—The Council shall include the following honorary nonvoting members:

(A) The Secretary of the Interior.

(B) 3 Members of the House of Representatives appointed by the Speaker of the House of Representatives upon the recommendation of the majority and minority leaders of the House of Representatives.

(C) 3 Senators appointed by the President pro tempore of the Senate upon the recommendation of the majority and minority leaders of the Senate.

(d) TERMS.—

(1) IN GENERAL.—

(A) INITIAL APPOINTMENT.—Except as provided in this subsection, each member of the Council shall be appointed for a term that terminates 9 years after the date on which the museum is open to the general public.

(B) SUBSEQUENT APPOINTMENTS.—Except as provided in this subsection, each of the members of the Council that are appointed after the members described in paragraph (1) shall be appointed for a term of 6 years.

(C) REAPPOINTMENT.—Members of the Council may be reappointed for subsequent terms.

(2) MEMBERS OF CONGRESS.—If a member appointed to the Council under subparagraph (B) or (C) of subsection (c)(3) ceases to hold the office that qualified such member for appointment, that member shall cease to be a member of the Council.

(3) VACANCIES AND SUBSEQUENT APPOINTMENTS.—A vacancy on the Council, including among the honorary non-voting members, shall not affect the Council's powers and shall be filled in the manner in which the original appointment was made, except that when filling any vacancies among the voting members and when making any appointments for voting members after the initial appointments, the President shall make appointments from a list of nominees provided by the Council. Any member appointed to fill a vacancy occasioned by death or resignation shall be appointed for the remainder of the term.

(e) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council shall serve without pay.

(2) EXPENSES.—Members of the Council shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(f) CHAIRPERSON.—The Council shall elect a chairperson by a majority vote of the voting members of the Council.

(g) MEETINGS.—

(1) IN GENERAL.—The Council shall meet at the call of the chairperson or upon the written request of a majority of the voting members of the Council, but shall meet, subject to paragraph (2), not fewer than 2 times each year.

(2) PLANNING.—During the first year, the Council shall meet not fewer than 10 times for the purpose of the planning and design of the Museum.

(h) QUORUM.—A majority of the voting members of the Council shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Council.

(i) BYLAWS.—The Council shall adopt bylaws.

(j) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Council may, if authorized by a majority of the voting members of the Council, take any action that the Council is authorized to take by this Act.

(k) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Council may accept for the Council voluntary services provided by a member of the Council.

(l) TRANSFER OF POWERS AND DUTIES.—

(1) IN GENERAL.—Except as provided in this subsection, the Council's powers and duties shall transfer to the Board of Regents 3 years after the date on which the Museum is open to the general public.

(2) ADVISORY COUNCIL.—

(A) IN GENERAL.—3 years after the date on which the Museum is open to the general public, the Council shall become an advisory council (hereafter referred to in this Act as the ''Advisory Council'').

(B) DUTIES OF THE ADVISORY COUNCIL.—The Advisory Council shall advise the Board of Regents on matters related to the administration, operation, and maintenance of the Museum.

(C) MEETINGS.—The Advisory Council shall meet not fewer than 1 time each year.

(D) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.

SEC. 5. DIRECTOR AND STAFF OF THE MUSEUM.

(a) IN GENERAL.—The Council, in consultation with the Board of Regents, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—

(1) APPOINTMENTS.—The Council may appoint the Director and any additional personnel to serve under the Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(2) PAY.—The Council may fix the pay of the Director at a rate not to exceed the maximum rate of basic pay payable for level III of the Executive Schedule and fix the pay of such additional personnel as the Council considers appropriate.

SEC. 6. OFFICE OF EDUCATION AND LIAISON PROGRAMS.

(a) OFFICE ESTABLISHED.—There is established within the Museum, the Office of Education and Liaison Programs, which shall carry out educational programs with respect to the Museum and other programs in collaboration with other African American museums.

(b) FUNCTIONS.—The Office of Education and Liaison Programs shall—

(1) carry out public educational programs within the Museum relating to African American life, art, history, and culture, including programs utilizing digital, electronic, and interactive technologies, and programs in collaboration with elementary schools, secondary schools, and post-secondary schools; and

(2) collaborate with African American museums by—

(A) establishing educational grant programs that strengthen museum operations, improve care of museum collections, and increase professional development;

(B) providing internship and fellowship programs that allow individuals pursuing careers or carrying out studies in the arts, humanities, and sciences to study African American life, art, history and culture;

(C) providing scholarship programs to assist individuals who demonstrate a commitment to a career in African American museum management in financing their studies; and

(D) collaborating with national and international organizations that address the issue of slavery in the international community.

SEC. 7. LOCATION OF THE NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE.

(a) MAIN BUILDING.—The Council, in consultation with the Board of Regents of the Smithsonian Institution is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution and the surrounding site to house the Museum. The Council shall consider expanding, and is authorized to expand, the Arts and Industries Building horizontally, vertically, and below ground.

(b) ADDITIONAL FACILITIES.—

(1) IN GENERAL.—If the Council determines that facilities in addition to the Arts and Industries Building of the Smithsonian Institution are needed for the Museum, the Council, in consultation with the General Services Administration and the National Capital Planning Commission is authorized to—

(A) identify a site for the additional facilities;

(B) acquire real property for the additional facilities;

(C) design the additional facilities; and

(D)(i) construct a building for the additional facilities; or

(ii) reconstruct and renovate a building for the additional facilities.

(2) LOCATION.—Any additional facilities for the Museum shall be located, if feasible, on or adjacent to the National Mall.

(3) PURCHASE AUTHORITY.—After consultation with the General Services Administration and the National Capital Planning Commission, the Council may purchase, with the consent of the owner thereof, any real property on or adjacent to the National Mall for such additional facilities.

(4) TRANSFER AUTHORITY.—For the purpose of securing additional facilities, any department or agency of the United States is authorized to transfer to the Council any interest of such department or agency in real property located on or adjacent to the National Mall, and the Council, after consultation with the General Services Administration and the National Capital Planning Commission, may accept any such interest in such property.

(c) COST–SHARING.—The Council shall pay ⅓ of the total cost of carrying out this section from appropriated funds. The Council shall pay the remainder of such costs from non-Federal sources. The Council shall have 5 years following the date of the Council's first meeting to secure the non-Federal funds required under this subsection.

(d) COMMEMORATIVE WORKS ACT.—Any building to house the Museum, including any additional facilities for the Museum, is not a commemorative work for purposes of the Commemorative Works Act (40 U.S.C. 1001 et seq.).

SEC. 8. NATIONAL MALL.

In this Act, the term ''National Mall'' means the National Mall (United States Government Reservations 3, 4, 5, and 6) in the District of Columbia.

SEC. 9. AUTHORITY.

Authority under this Act to enter into contracts or to make payments is effective in any fiscal year only to the extent provided in advance in an appropriations act, except as provided under section 10(b)(3).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) RENOVATION.—There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized under section 7.

(b) OPERATION AND MAINTENANCE.—

(1) IN GENERAL.—There is authorized to be appropriated to the Council to carry out this Act, other than sections 6 and 7—

(A) $15,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each succeeding fiscal year.

(2) OFFICE OF EDUCATION AND LIAISON PROGRAMS.—There is authorized to be appropriated to the Council to carry out section 6, $10,000,000 for fiscal year 2002 and for each succeeding fiscal year.

(3) AVAILABILITY.—The amounts appropriated under paragraphs (1) and (2) shall remain available for the operation and maintenance of the Museum until expended.

SEC. 11. AMENDMENT.

Section 5580 of the Revised Statutes (20 U.S.C. 42) is amended in subsection (b)(2) by inserting ''the National Museum of African American History and Culture,'' after ''Performing Arts,''.

Mr. CLELAND. Mr. President, I rise to discuss legislation being introduced in the Senate today to establish the National Museum of African American History and Culture. I am very proud to work with such distinguished members of the Senate as my friend, Senator BROWNBACK, and the other cosponsors of this legislation: Senators SANTORUM, CLINTON, Reid, DODD, and MILLER. Our bill is similar to a measure being introduced in the House by Representatives JOHN LEWIS and J.C. WATTS. I am both proud and pleased to be associated with this project and look forward to seeing this legislation passed by the Senate and the House of Representatives and signed into law by the President in the near future.

This bipartisan legislation would establish a permanent collection of artifacts and historical materials showcasing 400 years of African American history, available for the public to experience and enjoy year-round. The national museum would be financed by a combination of public and private sector contributions. A number of studies document the great need for museum collections addressing African American history and culture. African American visitors to Washington find that their story is not being told in the existing museums and memorials. Yet, there are existing private collections of historical materials addressing African American history that could be contributed to a museum in Washington.

Many notable African Americans have made important contributions in the areas of science, medicine, the arts and humanities, sports, music and dance, among many other fields. It is right to honor this legacy on a national level. We believe that by establishing this museum we will be able to finally honor the legacy of African Americans properly. By placing this museum on or near the National Mall, we will finally place the history of African Americans in a national spotlight, where it belongs.

Legislation authorizing a national museum devoted to African American history and culture has been introduced during every Congress since 1988. The legislation passed the Senate unanimously in one Congress, and passed the House unanimously in another session. However, it has not yet become law. The sponsors of the legislation in the 107th Congress believe that the time has come for enactment of this legislation so that families across America from all races and ethnic groups who visit the nation's capital can more fully understand American history and the significant contributions of African Americans to that history.

I encourage others to join us in this endeavor as we attempt to remember, recognize, and commemorate the major contributions made by African Americans in the areas of science, medicine, the arts and humanities, sports, music, and dance. This museum will not only be a tribute to African American history and culture but it will also be a source of pride for all Americans as physical evidence of the strength, character, and dignity of the human race.

By Mr. CHAFEE (for himself, Mr. REID, Mr. HATCH, Mr. LEAHY, Mr. WARNER, Mr. TORRICELLI, Ms. SNOWE, Mrs. MURRAY, Ms. MIKULSKI, Mr. JOHNSON, Mr. CORZINE, and Mr. KERRY):

S. 830. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Health, Education, Labor, and Pensions.

Mr. CHAFEE. Mr. President, I am pleased to be joined today by Senators REID, HATCH, LEAHY, WARNER, TORICELLI, SNOWE, MURRAY, MIKULSKI, JOHNSON, CORZINE, and KERRY in introducing the Breast Cancer and Environmental Research Act of 2001. This bill would establish research centers that would be the first in the nation to specifically study the environmental factors that may be related to the development of breast cancer. The lack of agreement within the scientific community and among breast cancer advocates on this question highlights the need for further study.

It is generally believed that the environment plays some role in the development of breast cancer, but the extent of that role is not understood. The Breast Cancer and Environmental Research Act of 2001 will enable us to conduct more conclusive and comprehensive research to determine the impact of the environment on breast cancer. Before we can find the answers, we must determine the right questions we should be asking.

While more research is being conducted into the relationship between breast cancer and the environment, there are still several issues that must be resolved to make this research more effective. They are as follows:

There is no known cause of breast cancer. There is little agreement in the scientific community on how the environment effects breast cancer. While studies have been conducted on the links between environmental factors like pesticides, diet, and electromagnetic fields, no consensus has been

reached. There are other factors that have not yet been studied that could provide valuable information. While there is much speculation, it is clear that the relationship between environmental exposures and breast cancer is poorly understood.

There are challenges in conducting environmental research. Identifying links between environmental factors and breast cancer is difficult. Laboratory experiments and cluster analyses, such as those in Long Island, New York, cannot reveal whether an environmental exposure increases a woman's risk of breast cancer. Epidemiological studies must be designed carefully because environmental exposures are difficult to measure.

Coordination between the National Institutes of Health, NIH, the National Cancer Institute, NCI, and the National Institute of Environmental Health Sciences, NIEHS, needs to occur. NCI and NIEHS are the two institutes in the NIH that fund most of the research related to breast cancer and the environment; however, comprehensive information specific to environmental effects on breast cancer is not currently available.

This legislation would establish eight Centers of Excellence to study these potential links. These ''Breast Cancer Environmental Research Centers'' would provide for multi-disciplinary research among basic, clinical, epidemiological and behavioral scientists interested in establishing outstanding, state-of-the-art research programs addressing potential links between the environment and breast cancer. The NIEHS would award grants based on a competitive peer-review process. This legislation would require each Center to collaborate with community organizations in the area, including those that represent women with breast cancer. The bill would authorize $30 million for the next five years for these grants.

''Genetics loads the gun, the environment pulls the trigger,'' as Ken Olden, the Director of NIEHS, frequently says. Many scientists believe that certain groups of women have genetic variations that may make them more susceptible to adverse environmental exposures. We need to step back and gather evidence before we come to conclusions—that is the purpose of this bill. People are hungry for information, and there is a lot of inconclusive data out there, some of which has no scientific merit whatsoever. We have the opportunity through this legislation to gather legitimate and comprehensive data from premier research institutions across the nation.

According to the American Cancer Society, each year 800 women in Rhode Island are diagnosed with breast cancer, and 200 women in my state will die of this terrible disease this year. We owe it to these women who are diagnosed with this, life-threatening disease to provide them with answers for the first time.

I urge my colleagues to join me in supporting and cosponsoring this important legislation, and ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Breast Cancer and Environmental Research Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Breast cancer is the second leading cause of cancer deaths among American women.

(2) More women in the United States are living with breast cancer than any other cancer (excluding skin cancer). Approximately 3,000,000 women in the United States are living with breast cancer, 2,000,000 of which have been diagnosed and an estimated 1,000,000 who do not yet know that they have the disease.

(3) Breast cancer is the most commonly diagnosed cancer among women in the United States and worldwide (excluding skin cancer). In 2001, it is estimated that 233,000 new cases of breast cancer will be diagnosed among women in the United States, 192,000 cases of which will involve invasive breast cancer and 40,800 cases of which will involve ductal carcinoma in situ (DCIS).

(4) Breast cancer is the second leading cause of cancer death for women in the United States. Approximately 40,000 women in the United States die from the disease each year. Breast cancer is the leading cause of cancer death for women in the United States between the ages of 20 and 59, and the leading cause of cancer death for women worldwide.

(5) A woman in the United States has a 1 in 8 chance of developing invasive breast cancer in her lifetime. This risk was 1 in 11 in 1975. In 2001, a new case of breast cancer will be diagnosed every 2 minutes and a woman will die from breast cancer every 13 minutes.

(6) All women are at risk for breast cancer. About 90 percent of women who develop breast cancer do not have a family history of the disease.

(7) The National Action Plan on Breast Cancer, a public private partnership, has recognized the importance of expanding the scope and breadth of biomedical, epidemiological, and behavioral research activities related to the etiology of breast cancer and the role of the environment.

(8) To date, there has been only a limited research investment to expand the scope or coordinate efforts across disciplines or work with the community to study the role of the environment in the development of breast cancer.

(9) In order to take full advantage of the tremendous potential for avenues of prevention, the Federal investment in the role of the environment and the development of breast cancer should be expanded.

(10) In order to understand the effect of chemicals and radiation on the development of cancer, multi-generational, prospective studies are probably required.

SEC. 3. NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES; AWARDS FOR DEVELOPMENT AND OPERATION OF RESEARCH CENTERS REGARDING ENVIRONMENTAL FACTORS RELATED TO BREAST CANCER.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285L et seq.) is amended by adding at the end the following section:

''SEC. 463B. RESEARCH CENTERS REGARDING ENVIRONMENTAL FACTORS RELATED TO BREAST CANCER.

''(a) IN GENERAL.—The Director of the Institute, based on recommendations from the Breast Cancer and Environmental Research Panel established under subsection (b) (referred to in this section as the 'Panel') shall make grants, after a process of peer review and programmatic review, to public or nonprofit private entities for the development and operation of not more than 8 centers for the purpose of conducting multidisciplinary and multi-institutional research on environmental factors that may be related to the etiology of breast cancer. Each such center shall be known as a Breast Cancer and Environmental Research Center of Excellence.

''(b) BREAST CANCER AND ENVIRONMENTAL RESEARCH PANEL.—

''(1) ESTABLISHMENT.—The Secretary shall establish in the Institute of Environmental Health Sciences a Breast Cancer and Environmental Research Panel.

''(2) COMPOSITION.—The Panel shall be composed of—

''(A) 9 members to be appointed by the Secretary, of which—

''(i) six members shall be appointed from among physicians, and other health professionals, who—

''(I) are not officers or employees of the United States;

''(II) represent multiple disciplines, including clinical, basic, and public health sciences;

''(III) represent different geographical regions of the United States;

''(IV) are from practice settings or academia or other research settings; and

''(V) are experienced in biomedical review; and

''(ii) three members shall be appointed from the general public who are representatives of individuals who have had breast cancer and who represent a constituency; and

''(B) such nonvoting, ex officio members as the Secretary determines to be appropriate.

''(3) CHAIRPERSON.—The members of the Panel appointed under paragraph (2)(A) shall select a chairperson from among such members.

''(4) MEETINGS.—The Panel shall meet at the call of the chairperson or upon the request of the Director, but in no case less often than once each year.

''(5) DUTIES.—The Panel shall—

''(A) oversee the peer review process for the awarding of grants under subsection (a) and conduct the programmatic review under such subsection;

''(B) make recommendations with respect to the funding criteria and mechanisms under which amounts will be allocated under this section; and

''(C) make final programmatic recommendations with respect to grants under this section.

''(c) COLLABORATION WITH COMMUNITY.—Each center under subsection (a) shall establish and maintain ongoing collaborations with community organizations in the geographic area served by the center, including those that represent women with breast cancer.

''(d) COORDINATION OF CENTERS; REPORTS.—The Director of the Institute shall, as appropriate, provide for the coordination of information among centers under subsection (a) and ensure regular communication between such centers, and may require the periodic preparation of reports on the activities of the centers and the submission of the reports to the Director.

''(e) REQUIRED CONSORTIUM.—Each center under subsection (a) shall be formed from a

consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute. Each center shall require collaboration among highly accomplished scientists, other health professionals and advocates of diverse backgrounds from various areas of expertise.

''(f) DURATION OF SUPPORT.—Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director of the Institute and if such group has recommended to the Director that such period should be extended.

''(g) GEOGRAPHIC DISTRIBUTION OF CENTERS.—The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers under this section.

''(h) INNOVATIVE APPROACHES.—Each center under subsection (a) shall use innovative approaches to study unexplored or under-explored areas of the environment and breast cancer.

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years 2002 through 2007. Such authorization is in addition to any other authorization of appropriations that is available for such purpose.''.

Mr. REID. Mr. President, I am pleased to join Senator CHAFEE in introducing the Breast Cancer and Environmental Research Act. Senator CHAFEE and I serve together on the Environment and Public Works Committee where we have had the opportunity to take a closer look at different environment-related health concerns. Most recently, the Committee traveled to Nevada to investigate what environmental factors may have contributed to a childhood leukemia cluster in the town of Fallon.

The Fallon hearing reminded me how little we know about what causes cancer and what, if any, connection exists between the environment and cancer. Three decades have passed since President Nixon declared the ''War on Cancer'' and scientists are still struggling with these and other crucial unanswered questions about cancer. This is particularly true in the case of breast cancer. We still don't know what causes breast cancer. We don't know if the environment plays a role in the development of breast cancer, and if it does, we don't know how significant that role is. In our search for answers about breast cancer, we need to make sure we are asking the right questions.

To date, there has been only a limited research investment to study the role of the environment in the development of breast cancer. More research needs to be done to determine the impact of the environment on breast cancer. The Breast Cancer and Environmental Research Act would give scientists the tools they need to pursue a better understanding about what links between the environment and breast cancer may exist. Specifically, our bill would authorize $30 million dollars to the National Institute of Environmental Health Sciences to establish eight Centers of Excellence that would focus on breast cancer and the environment.

In the year 2000 alone, 183,000 women will learn that they have breast cancer. In this same year, 40,000 women will die from breast cancer. In Nevada—a state with a population under two million people—1,200 women will be diagnosed with breast cancer in this year and 200 women will lose their lives to this deadly disease. These women are our mothers, our wives, our daughters, and our friends.

If we miss promising research opportunities because of Congress' failure to act, millions of women and their families will face critical unanswered questions about breast cancer. I urge my colleagues to join in our quest for answers about this deadly disease and to support the Breast Cancer and Environmental Research Act.

By Mr. SHELBY:

S. 831. A bill to amend the Internal Revenue Code of 1986 to provide for a 100 percent deduction for business meals; to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to introduce legislation that would increase the deductibility of business meals to 100 percent. By only allowing a 50 percent deduction, the current law unfairly hurts small business owners who many times conduct business face to face over a meal. For these people, the costs of business meals truly is a legitimate business expense. However, unlike other business expenses, they are not able to fully deduct the cost of business meals.

America's small businesses are the backbone of our economy. Allowing full deductibility of business related meals will lighten the heavy financial burden small business owners face daily just to be able to keep their doors open. Furthermore, increased deductibility will inject additional capital into our country's businesses, allowing them to spend more money on innovation and growth. Such activities will lead to more jobs and a stronger economy.

Full deductibility of business meals will also create an increase in restaurant patronage. As a result, my bill will benefit waiters, waitresses, cooks and other restaurant workers by increasing their job security and wages. Increased wages will make it easier for restaurant employees to meet the rising cost of living. With the cost of gasoline, electricity, and health insurance rising to unprecedented levels, higher wages can not come soon enough.

Just as importantly, increased wages will make it easier for more Americans to save for their retirement. Rather than living paycheck to paycheck, increased wages in the restaurant industry will make it possible for more people to begin to save for the future. Given the bleak predictions for the continued solvency of the Social Security trust fund, Congress must do all that it can to encourage saving.

Similar bills to increase the deductibility of business meals have been introduced in previous years. Now is the time to move beyond mere discussion and to move towards meaningful action. This legislation will have a positive effect on our economy. It fosters small business growth and will help increase wages for many Americans throughout the country. I ask that my colleagues join me in support of this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED DEDUCTION FOR BUSINESS MEAL EXPENSES.

(a) IN GENERAL.—Section 274(n)(1) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking ''50 percent'' in the text and inserting ''the allowable percentage''.

(b) ALLOWABLE PERCENTAGE.—Section 274(n) is amended by—

(1) striking paragraph (3);

(2) redesignating paragraph (2) as paragraph (3); and

(3) inserting after paragraph (1) the following new paragraph:

''(2) ALLOWABLE PERCENTAGE.—For purposes of paragraph (1), the allowable percentage is—

''(A) in the case of amounts for items described in paragraph (1)(B), 50 percent, and

''(B) in the case of expenses for food or beverages, 100 percent.''.

(c) CONFORMING AMENDMENT.—The heading for subsection (n) of section 274 is amended by striking ''50 PERCENT'' and inserting ''LIMITED PERCENTAGES''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 832. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Indian Gaming Regulatory Improvement Act of 2001 to make what I believe are necessary changes to the Indian Gaming Regulatory Act of 1988. I am very pleased to be joined by Senator INOUYE in this regard.

The IGRA was signed into law in 1988 with two purposes in mind: to provide for and continue the economic opportunities tribal gaming presents to Indian tribes; and to provide a regulatory framework which ensures the integrity of tribal gaming—integrity that benefits tribes as well as customers of tribal gaming operations.

In 1988, tribal gaming was a relatively new activity and in 13 years tribal gaming annual gross revenues have grown from $500 million to $9 billion. The IGRA requires these revenues to be spent by tribal governments for specific purposes including physical infrastructure, general welfare and the

betterment of Indian and surrounding non-Indian communities.

Out of 561 federally recognized tribes, there are 212 tribes that conduct some form of gaming. The old saying that the best social welfare policy is a job is true when it comes to tribal gaming. The economic benefits for these tribes, their members and surrounding communities cannot be ignored. For these communities collectively, unemployment has dropped significantly and workers, both Non-Indian and Indian alike, employed by these operations enjoy benefits such as steady income and good paying jobs, health insurance and retirement benefits. Additionally, tribes who operate gaming have been able to complement scarce federal dollars to provide for housing, health care and education for their members and to generate hundreds of thousands of jobs for Indians and non-Indians nationwide.

The legislation I am introducing today closely resembles a measure I introduced in the last Congress and is not intended to be a comprehensive attempt to address all gaming matters that have arisen in the past 13 years. Rather, this bill takes aim at 6 very specific items:

1. With regard to gaming fees assessed against tribal operations, this bill will require the Federal National Indian Gaming Commission to levy fees that are reasonably related to the duties of and services provided by the Commission to tribes, and in certain instances to reduce the level of fees payable by those operations;

2. The bill establishes a requirement that fees paid by tribes can only be utilized for the specific activities of the Commission mandated by the IGRA;

3. It provides statutory authority for the Commission to establish, through a negotiated rule-making process, minimum standards for the conduct of tribal gaming, while still recognizing the primary responsibility of tribes to regulate gaming on tribal lands;

4. The bill authorizes technical assistance to tribes for a number of purposes including strengthening tribal regulatory regimes; assessing the feasibility of non-gaming economic development activities on Indian lands; providing treatment services for problem gamblers; and for other purposes not inconsistent with the IGRA;

5. It clarifies the current conflict between the IGRA and other Federal law with regard to the classification of certain games conducted by tribes; and

6. Last, to bring the Commission in line with all other Federal agencies it specifically subjects the Commission to the reporting and strategic and long-term planning requirements similar to requirements contained in the Government Performance and Results Act of 1993 (''GPRA'').

While there are other matters that Indian tribes and others wish to address that are not included in this bill, I am hopeful that my colleagues will find this legislation to be reasonable and targeted to specific issues that demand our attention in this session of Congress.

I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Gaming Regulatory Improvement Act of 2001''.

SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended—

(1) in section 4(7) (25 U.S.C. 2703(7)), by adding at the end the following:

''(G) Notwithstanding any other provision of law, sections 1 through 7 of the Act of January 2, 1951 (commonly known as the Gambling Devices Transportation Act (15 U.S.C. 1171-1177)) shall not apply to any gaming described in subparagraph (A)(i) (class II gaming) where electronic, computer, or other technologic aids are used in connection with any such gaming.'';

(2) in section 7 (25 U.S.C. 2706)—

(A) in subsection (c)—

(i) in paragraph (3), by striking ''and'' at the end thereof;

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting after paragraph (3), the following:

''(4) the strategic plan for Commission activities.''; and

(B) by adding at the end the following:

''(d) STRATEGIC PLAN.—

''(1) IN GENERAL.—The strategic plan required under subsection (c)(4) shall include—

''(A) a comprehensive mission statement covering the major functions and operations of the Commission;

''(B) the general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the Commission;

''(C) a description of how the general goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

''(D) a performance plan that shall be related to the general goals and objectives of the strategic plan;

''(E) an identification of the key factors external to the Commission and beyond its control that could significantly affect the achievement of the general goals and objectives; and

''(F) a description of the program evaluations used in establishing or revising the general goals and objectives, with a schedule for future program evaluations.

''(2) TERM OF PLAN.—The strategic plan shall cover a period of not less than 5 fiscal years beginning with the fiscal year in which it the plan is submitted. The strategic plan shall be updated and revised at least every 4 years.

''(3) PERFORMANCE PLAN.—The performance plan under paragraph (1)(D) shall be consistent with the strategic plan. In developing the performance plan, the Commission should be consistent with the requirements of section 1115 of title 31, United States Code (the Government Performance and Results Act).

''(4) CONSULTATION.—In developing the strategic plan, the Commission shall consult with the Congress and tribal governments, and shall solicit and consider the views and suggestions of those entities that may be potentially affected by or interested in such a plan.'';

(3) in section 11(b)(2)(F)(i) (25 U.S.C. 2710(b)(2)(F)(i)), by striking ''primary management'' and all that follows through ''such officials'' and inserting ''tribal gaming commissioners, key tribal gaming commission employees, and primary management officials and key employees of the gaming enterprise and that oversight of primary management officials and key employees'';

(4) in section 18(a) (25 U.S.C. 2717(a))—

(A) in paragraph (1), by striking ''by each'' and all that follows through the period and inserting ''pursuant to section 22(a)'';

(B) by striking paragraphs (2) and (3); and

(C) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(5) by redesignating section 22 (25 U.S.C. 2721) as section 25; and

(6) by inserting after section 21 (25 U.S.C. 2720) the following:

''SEC. 22. FEE ASSESSMENTS.

''(a) ESTABLISHMENT OF SCHEDULE OF FEES.—

''(1) IN GENERAL.—Except as provided in this section, the Commission shall establish a schedule of fees to be paid annually to the Commission by each gaming operation that conducts a class II or class III gaming activity that is regulated by this Act.

''(2) RATES.—The rate of fees under the schedule established under paragraph (1) that are imposed on the gross revenues from each activity described in such paragraph shall be as follows:

''(A) A fee of not more than 2.5 percent shall be imposed on the first $1,500,000 of such gross revenues.

''(B) A fee of not more than 5 percent shall be imposed on amounts in excess of the first $1,500,000 of such gross revenues.

''(3) TOTAL AMOUNT.—The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed $8,000,000.

''(b) COMMISSION AUTHORIZATION.—

''(1) IN GENERAL.—By a vote of not less than 2 members of the Commission the Commission shall adopt the schedule of fees provided for under this section. Such fees shall be payable to the Commission on a quarterly basis.

''(2) FEES ASSESSED FOR SERVICES.—The aggregate amount of fees assessed under this section shall be reasonably related to the costs of services provided by the Commission to Indian tribes under this Act (including the cost of issuing regulations necessary to carry out this Act). In assessing and collecting fees under this section, the Commission shall take into account the duties of, and services provided by, the Commission under this Act.

''(3) RULEMAKING.—The Commission shall promulgate regulations as may be necessary to carry out this subsection.

''(4) CONSULTATION.—In establishing a schedule of fees under this section, the Commission shall consult with Indian tribes.

''(c) FEE REDUCTION PROGRAM.—

''(1) IN GENERAL.—In making a determination of the amount of fees to be assessed for any class II or class III gaming activity under the schedule of fees under this section, the Commission may provide for a reduction in the amount of fees that otherwise would be collected on the basis of the following factors:

''(A) The extent of the regulation of the gaming activity involved by a State or Indian tribe (or both).

''(B) The extent of self-regulating activities, as defined by this Act, conducted by the Indian tribe.

''(C) Other factors determined by the Commission, including

''(i) the unique nature of tribal gaming as compared to commercial gaming, other governmental gaming, and charitable gaming;

''(ii) the broad variations in the nature, scale, and size of tribal gaming activity;

''(iii) the inherent sovereign rights of Indian tribes with respect to regulating the affairs of Indian tribes;

''(iv) the findings and purposes under sections 2 and 3;

''(v) the amount of interest or investment income derived from the Indian gaming regulation accounts; and

''(vi) any other matter that is consistent with the purposes under section 3.

''(2) RULEMAKING.—The Commission shall promulgate regulations as may be necessary to carry out this subsection.

''(3) CONSULTATION.—In establishing any fee reduction program under this subsection, the Commission shall consult with Indian tribes.

''(d) INDIAN GAMING REGULATION ACCOUNTS.—

''(1) IN GENERAL.—All fees and civil forfeitures collected by the Commission pursuant to this Act shall be maintained in separate, segregated accounts, and shall only be expended for purposes set forth in this Act.

''(2) INVESTMENTS.—It shall be the duty of the Commission to invest such portion of the accounts maintained under paragraph (1) as are not, in the judgment of the Commission, required to meet immediate expenses. The Commission shall invest the amounts deposited under this Act only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

''(3) SALE OF OBLIGATIONS.—Any obligation acquired by the accounts maintained under paragraph (1), except special obligations issued exclusively to such accounts, may be sold by the Commission at the market price, and such special obligations may be redeemed at par plus accrued interest.

''(4) CREDITS TO THE INDIAN GAMING REGULATORY ACCOUNTS.—The interest on, and proceeds from, the sale or redemption of any obligations held in the accounts maintained under paragraph (1) shall be credited to and form a part of such accounts.

''SEC. 23. MINIMUM STANDARDS.

''(a) CLASS I GAMING.—Notwithstanding any other provision of law, class I gaming on Indian lands shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

''(b) CLASS II GAMING.—Effective on the date of enactment of this section, an Indian tribe shall retain primary jurisdiction to regulate class II gaming activities which, at a minimum, shall be conducted in conformity with section 11 and regulations promulgated pursuant to subsection (d).

''(c) CLASS III GAMING.—Effective on the date of enactment of this section, an Indian tribe shall retain primary jurisdiction to regulate class III gaming activities authorized under this Act. Any class III gaming operated by an Indian tribe pursuant to this Act shall be conducted in conformity with section 11 and regulations promulgated pursuant to subsection (d).

''(d) RULEMAKING.—

''(1) IN GENERAL.—

''(A) PROMULGATION.—Not later than 180 days after the date of enactment of the Indian Gaming Regulatory Improvement Act of 2001, the Commission shall develop procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate regulations relating to—

''(i) the monitoring and regulation of tribal gaming;

''(ii) the establishment and regulation of internal control systems; and

''(iii) the conduct of background investigation.

''(B) PUBLICATION OF PROPOSED REGULATIONS.—Not later than 1 year after the date of enactment of the Indian Gaming Regulatory Improvement Act of 2001, the Commission shall publish in the Federal Register proposed regulations developed by a negotiated rulemaking committee pursuant to this section.

''(2) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this subsection shall be composed only of Federal and Indian tribal government representatives, a majority of whom shall be nominated by and be representative of Indian tribes that conduct gaming pursuant to this Act.

''(e) EXISTING REGULATIONS.—Regulations that establish minimum internal control standards that are promulgated by the Commission and in effect on the date of enactment of this section shall, effective on the date that is 1 year after such date of enactment, have no force or effect.

''SEC. 24. USE OF NATIONAL INDIAN GAMING COMMISSION CIVIL FINES.

''(a) IN GENERAL.—Amounts collected by the Commission pursuant to section 14 shall be deposited in a separate Indian gaming regulation account as established under section 22(d). Funds in such accounts shall be available to the Commission, as provided for in advance in appropriations Acts, for carrying out this Act.

''(b) USE OF FUNDS.—The Commission may provide grants and technical assistance to Indian tribes from any funds secured by the Commission pursuant to section 14, which funds shall be made available only for the following purposes:

''(1) To provide technical training and other assistance to Indian tribes to strengthen the regulatory integrity of Indian gaming.

''(2) To provide assistance to Indian tribes to assess the feasibility of non-gaming economic development activities on Indian lands.

''(3) To provide assistance to Indian tribes to devise and implement programs and treatment services for individuals diagnosed as problem gamblers.

''(4) To provide other forms of assistance to Indian tribes not inconsistent with the Indian Gaming Regulatory Act.

''(c) SOURCE OF FUNDS.—Amounts used to carry out subsection (b) may only be drawn from funds—

''(1) collected by the Commission pursuant to section 14; and

''(2) the use of which has been authorized in advance by an appropriations Act.

''(d) CONSULTATION.—In carrying out this section, the Commission shall consult with Indian tribes and any other appropriate tribal or Federal officials.

''(e) REGULATIONS.—The Commission may promulgate such regulations as may be necessary to carry out this section.''.

By Ms. SNOWE (for herself, Mr. DODD, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. BINGAMAN, and Ms. COLLINS):

S. 833. A bill to amend the Internal Revenue Code of 1986 to expand the child tax credit; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Child Tax Credit Expansion and Equity Act of 2001, with my good friend and colleague, the Senator from Connecticut, Mr. DODD, and our other cosponsors Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. BINGAMAN, and Ms. COLLINS. This legislation would take an important first step towards helping those children who are most in need, by expanding the current Child Tax Credit and making its benefits more equitable.

That I am here today introducing this bill is due in large part to the efforts of two other people. Thanks to the President's initiative to double the current child tax credit from $500 to $1,000. This effort has opened the door to addressing the cost borne by the parents in our society as they raise their children.

Of course, there is a larger cost than just the monetary expense incurred in taking care of and raising children. However, what better way can we acknowledge this cost, and lessen parents' burden than to increase the child tax credit. My good friend, and colleague, Representative CONNIE MORELLA, from Maryland, recognized this and began an effort in the House of Representatives to address the current child tax credit inequity. I thank her for all of her good work and am happy to be able to work with her from this side of the Capitol to see that this issue is properly addressed.

The President's proposal, while an important first step, doesn't do enough to help those who need it the most—our low and middle income families. But make no mistake it is thanks to the President's opening the door to the Child Tax Credit that we are here today to take that effort one step further and make this credit partially refundable.

There are over 16 million children in poverty, 1 in every 4, whose families have no federal tax liability and therefore will receive no benefit from an increase in the child tax credit because it's not refundable. More than two-thirds of these children are in working families.

There are an additional 7 million children who live in families that will not benefit from an increase in the child tax credit unless it's refundable due to their limited tax liability because they do not pay enough in federal taxes to get a $500 credit. Yet, these families pay taxes. They pay federal and state taxes, payroll taxes, gas taxes, phone taxes, sales taxes, property taxes and other taxes. Overwhelmingly, they represent working families. They have no federal tax liability and therefore without this change to the child tax credit they will receive no benefit from an increased child tax credit.

There may be some who will say that unless you can do it all don't do any of it. There are some who will say that only a fully refundable credit is acceptable. However, I respectfully disagree. I have served in Congress for over two decades and I have learned that you should never pass up the opportunity to make a difference. I have long made

improving the lives of our children a priority.

The Child Tax Credit Expansion and Equity Act, would expand the child tax credit from $500 to $1,000 as proposed by the President, but it would make the first $500 refundable. Families which would otherwise receive nothing, would have a $500 refundable credit to help mitigate the costs of raising their children today.

This bill just makes good sense. It makes sense that every family with children should be eligible for the child tax credit. It makes good sense to expand the number of families that qualify for the credit instead of just giving more money to those families that already benefit. It makes good sense and it does so in a simple and fair way. It does not create another complicated tax form. The amount of the credit is based on the number of dependents, period. It fits into the current tax code and doesn't require a complex calculation or a degree in accounting. This is good public policy.

If timing is everything, then this is the time to do this for some of our most needy families. America today is prosperous, healthy and strong. And yet, too many of our children, our most vulnerable of citizens are in need of assistance. When the federal government is expecting the largest surplus ever, shouldn't we make an investment in our future and help those who need it most.

I urge my colleagues to consider this legislation and work with me and the cosponsors to ensure that the child tax credit is assisting the most children possible.

Mr. DODD. Mr. President, I am pleased to join with my colleague from Maine, Senator SNOWE, in introducing legislation to make the child tax credit refundable.

Throughout America, families with children struggle with the extra cost associated with raising children today.

Early in the President's campaign, he proposed to increase the current child tax credit from $500 to $1,000. While a reduction in tax rates is helpful to families, an increase in the per child tax credit is especially helpful because it recognizes that there are costs associated with raising a family.

During the President's inaugural remarks, he said, ''America at its best, is compassionate. In the quiet of American consciences, we know that deep, persistent poverty is unworthy of our nation's promise.''

With much applause, the President continued, ''And whatever our views of its cause, we can agree that children at risk are not at fault.'' ''Americans in need are not strangers, they are citizens, not problems, but priorities.

While I very much support the President's proposal to increase the child tax credit from $500 to $1,000, it makes sense to me that all families, not just families with tax liability, should receive such assistance.

Because the President's tax credit is not refundable, over 16 million children are left behind. They live in families with no federal tax liability and therefore will receive no benefit from an increase in the child tax credit because it's not refundable—it's not available to families without federal tax liability.

An additional 7 million children live in families who will not benefit from an increase in the child tax credit unless it's refundable because their current credit would not increase due to limited tax liability.

Yet, these families pay taxes. They pay federal and state taxes, payroll taxes, gas taxes, phone taxes, and other taxes. Overwhelmingly, they represent working families. Yet, at $12,000 or $20,000, they have no federal tax liability and therefore unless the child tax credit is made refundable, they will receive no benefit from an increased child tax credit.

The legislation we are introducing today will increase the current child tax credit from $500 to $1,000 as the President proposed, but would also provide a refundable credit of $500 per child for those families without federal income tax liability. This reform will lift one million families out of poverty.

Often, people talk of the complexity of the tax code. The beauty of making the child tax credit refundable is its simplicity. All families, regardless of income, would receive the credit—no marriage penalty, no cliff, no complicated phase-outs.

Back in 1991, the Bipartisan National Children's Commission, chaired by my colleague from West Virginia, Senator Rockefeller, recommended enacting a refundable child tax credit. After a decade, the time is right. We have the resources. And, I hope and believe, we have the will.

Making the child tax credit refundable is simply one of the most effective antipoverty strategies in years.

I urge my colleagues to join with us today in supporting this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 82—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS AND REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 82

Whereas, during the 105th Congress, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs conducted an oversight review of the Treasury Departments Office of Inspector General;

Whereas, the Subcommittee has received requests from the parties to two appeals, Richard B. Calahan v. Department of Treasury, No. DC—0752–01–0245–I–1, and Lori Y. Vassar v. Department of Treasury, No. DC–0752–01–0275–I–1, before the Merit Systems protection board, for access to records, including transcripts of depostions, from its oversight review;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent committees, subcommittees, Members, officer, and employees of the Senate with respect to any subpoena, order, or request for testimony or documentary production relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved*, That the Chairman and Ranking Minority member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide copies of records from its Treasury Department Office of Inspector General oversight review to the parties in Richard B. Calahan v. Department of Treasury and Lori Y. Vassar v. Department of Treasury, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate legal Counsel is authorized to represent the Permanent Subcommittee on Investigations, and any other committee, subcommittee, Member, officer, or employees of the Senate in connection with testimony or documentary production in these matters.

Mr. LOTT. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has received requests from the parties in two appeals before the Merit Systems Protection Board for permission to use in those proceedings documents obtained from the Permanent Subcommittee on Investigations. These cases grow in part out of the FBI files matter that several congressional committees, including the Senate Investigations Subcommittee, inquired into several years ago. The appeals are from adverse personnel actions taken by the Treasury Inspector General after an investigation by the President's Council on Integrity and Efficiency that followed a Subcommittee referral.

The documents that are the subject of this authorizing resolution were used in the PCIE investigation that underlay these personnel actions. The resolution would authorize the Subcommittee, through the Chairman and Ranking Member, acting jointly, to permit use of Subcommittee records in these proceedings. In order to protect the privileges of the Subcommittee, and the other Senate entities that addressed these matters, the resolution would also authorize representation by the Senate Legal Counsel in connection with any discovery sought in these cases.

SENATE RESOLUTION 81—COMMENDING THE MEMBERS OF THE UNITED STATES MISSION IN THE PEOPLE'S REPUBLIC OF CHINA FOR THEIR PERSISTENCE, DEVOTION TO DUTY, SACRIFICE, AND SUCCESS IN OBTAINING THE SAFE REPATRIATION TO THE UNITED STATES OF THE CREW OF THE NAVY EP–3E ARIES II AIRCRAFT WHO HAD BEEN DETAINED IN CHINA

Mr. HELMS (for himself, Mr. ALLEN, Mr. BIDEN, and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 81

Whereas, on March 31, 2001, two fighter aircraft of the People's Republic of China intercepted a United States Navy EP-3E ARIES II maritime patrol aircraft on a routine reconnaissance mission in international airspace over the China Sea;

Whereas one of the two Chinese aircraft collided with the United States aircraft, jeopardizing the lives of its 24 crewmembers, causing serious damage, and forcing the United States aircraft commander, Navy Lieutenant Shane Osborn, to issue a ''MAYDAY'' distress call and perform an emergency landing at a Chinese airfield on Hainan Island;

Whereas, in violation of international norms, the Government of the People's Republic of China detained the United States aircrew for 11 days, initially refusing the requests of United States consular and military officials for access to the crew; and

Whereas the persistence and devotion to duty of the members of the United States mission in the People's Republic of China resulted in the release of all members of the United States aircrew on April 12, 2001: Now, therefore, be it

Resolved, That the Senate hereby commends the members of the United States mission in the People's Republic of China, and other responsible officials of the Departments of State and Defense, for their outstanding performance in obtaining the safe repatriation to the United States of the crew of the Navy EP-3E ARIES II aircraft.

SENATE CONCURRENT RESOLUTION 36—HONORING THE NATIONAL SCIENCE FOUNDATION FOR 50 YEARS OF SERVICE TO THE NATION

Mr. MCCAIN (for himself, Mr. ALLEN, Mr. HOLLINGS, Mr. BREAUX, Mr. BOND, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. MIKULSKI, Mr. LIEBERMAN, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 36

Whereas Congress created the National Science Foundation in 1950 to promote the progress of science, to advance the national health, prosperity, and welfare, and to secure the national defense;

Whereas the National Science Foundation Act of 1950 was signed into law by President Harry S. Truman on May 10, 1950;

Whereas the National Science Foundation strengthens the economy and improves the quality of life in the United States as the Federal Government's only agency dedicated to the support of education and fundamental research in all scientific and engineering disciplines;

Whereas the National Science Foundation has worked continuously and successfully to ensure that the United States maintains its leadership in discovery, learning, and innovation in the sciences, mathematics, and engineering;

Whereas the National Science Foundation has supported the research of more than half of the United States Nobel laureates in physics, chemistry, and economics;

Whereas the National Science Foundation has been the lead Federal agency in a number of national science initiatives, such as those in information technology and nanotechnology;

Whereas the National Science Foundation funds almost 20,000 research and education projects in science and engineering at over 2,000 colleges and universities, elementary and secondary schools, nonprofit organizations, and small businesses throughout our Nation;

Whereas the National Science Foundation's innovative education programs work to ensure that every American student receives a solid foundation in science, technology, and mathematics through support for the training and education of teachers, the public, and students of all ages and backgrounds, and by supporting research into new teaching tools, curricula, and methodologies;

Whereas the programs funded by the National Science Foundation are an exemplary demonstration of the value of scientific peer review in selecting the most innovative and technically excellent research activities using a network of over 50,000 scientists and engineers each year;

Whereas the National Science Foundation's international programs promote new partnerships and cooperative projects between United States scientists and engineers and their foreign colleagues, and such partnerships play a key role in establishing and strengthening diplomatic and economic ties; and

Whereas research supported by the National Science Foundation has led to discoveries, technologies, and products which affect our daily lives, including a greater understanding of bacteria, viruses, and the structure of DNA; medical diagnostic tools, such as Magnetic Resonance Imaging (MRI); the Internet, web browsers, and fiber optics, which have revolutionized global communication; polymer materials used in products ranging from clothing to automobiles; Doppler radar used for accurate weather forecasting; artificial skin that can help recovering burn victims; economic research in game and decision theory which has led to a greater understanding of economic cycles; and discoveries of new planets, black holes, and insights into the nature of the universe: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the significance of the anniversary of the founding of the National Science Foundation;

(2) acknowledges the completion of 50 years of achievement and service by the National Science Foundation to the United States; and

(3) reaffirms its commitment for the next 50 years to support research, education, and technological advancement and discovery through the National Science Foundation, the premier scientific agency in the Federal Government.

Mr. MCCAIN. Mr. President, I would like to introduce this resolution to commemorate the National Science Foundation, (NSF)'s, fifty years of public service. I am joined in this resolution by Senator HOLLINGS, Senator ALLEN, Senator BREAUX, Senator BOND, Senator ROCKEFELLER, Senator JEFFORDS, Senator MIKULSKI, Senator LEIBERMAN, and Senator KENNEDY. In addition, I would like to thank my colleague, Representative NICK SMITH, for his leadership on this issue. The NSF has played a crucial role in developing and maintaining the United States economic and scientific leadership, and it deserves the gratitude of the American people for its groundbreaking work.

Since its creation in 1950, the National Science Foundation has conducted ''cutting-edge'' research. More than half of the U.S. Nobel Laureates in physics, chemistry, and economics have had their research supported by NSF. The National Solar Observatory, and other NSF-sponsored programs, are finding new discoveries about the Sun, the planets, and other galaxies in our universe. The NSF also runs programs that study life here on Earth. The NSF Antarctic station, that has recently been in the news, studies the West Antarctic Ice Shelf to understand changes in global climate change. The recent news report on the Antarctic Station further highlights the risk, sacrifice, and dedication that many of our scientists and engineers take on a daily basis in our scientific research pursuits. A NSF-sponsored Multidisciplinary Center for Earthquake Engineering Research studies new construction techniques to prevent death and destruction from earthquakes. The NSF Plant Genome Project is mapping a model plant, the Arabidopsis thaliana, to find ways to develop crops resistant to insects, disease, and harsh environmental conditions. Most important, NSF plays an important role in working with America's schools to teach children math and science and train the scientists and engineers that are necessary to maintaining America's technological leadership.

It is important to point out that NSF-sponsored research continues to play an important role in every day American life. Research sponsored by NSF developed Magnetic Resonance Imaging, (MRI), artificial skin, and other medical breakthroughs that have saved the lives of millions of Americans. NSF research also developed the Doppler radar, which is used every day to warn Americans of impending hazardous weather. In addition, the NSF played a major role in developing the Internet, web browsers, and fiber optics, which have revolutionized our economy and culture. The NSF also helped to develop the American Sign Language Dictionary. Currently, the NSF is pursuing a number of new research initiatives, including nanotechnology and information technology. These new endeavors promise to foster new discoveries throughout the 21st century.

In conclusion, I urge my colleagues to join me in passing this resolution to express our gratitude and support for

this major American research institution.

Mr. HOLLINGS. Mr. President, innovation, undeniably, has been the cornerstone of this nation's competitiveness. What is often overlooked, however, is that the precursor to innovation is basic, fundamental research. An agency that has been essential to this kind of research is the National Science Foundation, NSF. Through the NSF, the United States has invested in world class basic research at our colleges and universities.

Today, we are introducing a resolution to commemorate 50 years of accomplishment by the National Science Foundation. The NSF is the Federal agency mandated to support overall academic science and engineering in the United States. To fulfill this responsibility, it supports both (1) university and college research in all fields of science, engineering, and mathematics, and (2) science, engineering, and mathematics education, including precollege as well as university education. NSF provides grants for these purposes, as opposed to operating research laboratories of its own.

NSF supported researchers have won Nobel Prices and have made discoveries that have significantly affected our daily lives. From understanding DNA to the development of web browsers, the science that NSF sponsors has enormous impacts. Moreover, NSF helps support the graduate students who become the next generation of researchers, teachers, and practitioners in the Sciences.

Specifically, I would like to draw attention to NSF's Experimental Program to Stimulate Competitive Research, EPSCoR. This program is helping to develop the research infrastructure in states like South Carolina that have traditionally been left behind in Federal research funding. I encourage the NSF to continue its support for EPSCoR.

NSF will complete its 50th year on May 10. I salute the agency's contribution to U.S. prosperity and scientific inquiry and hope that the next 50 years are just as productive as the first 50.

AMENDMENTS SUBMITTED AND PROPOSED

SA 358. Mr. JEFFORDS (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965.

SA 359. Ms. COLLINS proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 360. Mr. HARKIN (for himself, Mr. HAGEL, Mr. JEFFORDS, Mr. KENNEDY, Ms. STABENOW, Mr. DODD, Mr. REED, Mr. WELLSTONE, Mr. LEVIN, Mr. KOHL, Ms. MIKULSKI, Mr. BREAUX, Ms. COLLINS, Mr. CHAFEE, and Mr. JOHNSON) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 361. Mr. JEFFORDS (for himself and Mr. BOND) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 362. Mr. TORRICELLI (for himself and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1 , supra; which was ordered to lie on the table.

SA 363. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 364. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 365. Mr. DODD (for himself, Ms. COLLINS, Ms. LANDRIEU, Mr. BINGAMAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. CORZINE, Mrs. MURRAY, Mr. LIEBERMAN, Mr. REED, Mrs. CLINTON, Mr. JEFFORDS, and Mr. KENNEDY) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 366. Mr. CAMPBELL (for himself, Mr. GRASSLEY, Mr. AKAKA, Mr. INOUYE, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 367. Mrs. FEINSTEIN (for herself, Mr. VOINOVICH, Mr. BAUCUS, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 368. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 369. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 370. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 371. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 358. Mr. JEFFPRDS (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1955; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Better Education for Students and Teachers Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. Short title; purpose; definitions; uniform provisions.
Sec. 4. Maintenance of effort.
Sec. 5. Prohibition regarding State aid.
Sec. 6. Participation by private school children and teachers.
Sec. 7. Standards for by-pass.
Sec. 8. Complaint process for participation of private school children.
Sec. 9. By-pass determination process.
Sec. 10. Prohibition against funds for religious worship or instruction.
Sec. 11. Applicability to home schools.
Sec. 12. General provision regarding nonrecipient nonpublic schools.
Sec. 13. School prayer.
Sec. 14. General prohibitions.
Sec. 15. Prohibition on Federal mandates, direction, and control.

TITLE I—BETTER RESULTS FOR DISADVANTAGED CHILDREN

Sec. 101. Policy and purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Reservation and allocation for school improvement.

PART A—BETTER RESULTS FOR DISADVANTAGED CHILDREN

Sec. 111. State plans.
Sec. 112. Local educational agency plans.
Sec. 113. Eligible school attendance areas.
Sec. 114. Schoolwide programs.
Sec. 115. Targeted assistance schools.
Sec. 116. Pupil safety and family school choice.
Sec. 117. Assessment and local educational agency and school improvement.
Sec. 118. Assistance for school support and improvement.
Sec. 119. Parental involvement.
Sec. 120. Professional development.
Sec. 120A. Participation of children enrolled in private schools.
Sec. 120B. Early childhood education.
Sec. 120C. Allocations.

PART B—LITERACY FOR CHILDREN AND FAMILIES

Sec. 121. Reading first.
Sec. 122. Early reading initiative.

PART C—EDUCATION OF MIGRATORY CHILDREN

Sec. 131. Program purpose.
Sec. 132. State application.
Sec. 133. Comprehensive plan.
Sec. 134. Coordination.

PART D—INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK YOUTH

Sec. 141. Initiatives for neglected, delinquent, or at risk youth.

PART E—21ST CENTURY LEARNING CENTERS; COMPREHENSIVE SCHOOL REFORM; SCHOOL DROPOUT PREVENTION

Sec. 151. 21st century learning centers; comprehensive school reform.

PART F—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

Sec. 161. Statement of policy.
Sec. 162. Grants for State and local activities.
Sec. 163. Local educational agency grants.
Sec. 164. Secretarial responsibilities.
Sec. 165. Definitions.
Sec. 166. Authorization of appropriations.
Sec. 167. Conforming amendments.

TITLE II—TEACHERS

Sec. 201. Teacher quality.
Sec. 202. Teacher mobility.

TITLE III—MOVING LIMITED ENGLISH PROFICIENT STUDENTS TO ENGLISH FLUENCY

Sec. 301. Bilingual education.

TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

Sec. 401. Amendment to the Elementary and Secondary Education Act of 1965.
Sec. 402. Gun-free requirements.
Sec. 403. School safety and violence prevention.
Sec. 404. Environmental tobacco smoke.

TITLE V—PUBLIC SCHOOL CHOICE AND FLEXIBILITY

Sec. 501. Public school choice and flexibility.

TITLE VI—PARENTAL INVOLVEMENT AND ACCOUNTABILITY

Sec. 601. Parental involvement and accountability.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

Sec. 701. Programs.
Sec. 702. Conforming amendments.

TITLE VIII—REPEALS

Sec. 801. Repeals.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Independent evaluation.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. SHORT TITLE; PURPOSE; DEFINITIONS; UNIFORM PROVISIONS.

The Act (20 U.S.C. 6301 et seq.) is amended—

(1) in the heading for section 1, by striking ''**TABLE OF CONTENTS**'' and inserting ''**SHORT TITLE**''; and

(2) by adding after section 1 the following:

''SEC. 2. PURPOSE.

''It is the purpose of this Act to support programs and activities that will improve the Nation's schools and enable all children to achieve high standards.

''SEC. 3. DEFINITIONS.

''Except as otherwise provided, in this Act:

''(1) AVERAGE DAILY ATTENDANCE.—

''(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

''(i) the aggregate number of days of attendance of all students during a school year; divided by

''(ii) the number of days school is in session during such school year.

''(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

''(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

''(i) consider the child to be in attendance at a school of the agency making such payment; and

''(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

''(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

''(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the third 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 State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

''(ii) any direct current expenditures by the State for the operation of such agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

''(3) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

''(4) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

''(A) is representative of a community or significant segments of a community; and

''(B) provides educational or related services to individuals in the community.

''(5) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 5505.

''(6) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 5505.

''(7) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 5502.

''(8) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 5502.

''(9) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

''(10) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

''(A) part A of title I;

''(B) part C of title I;

''(C) part C of title II;

''(D) part A of title IV (other than section 4114); and

''(E) subpart 4 of part B of title V.

''(11) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education—

''(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

''(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subpart 4 of part B of title V.

''(12) DEPARTMENT.—The term 'Department' means the Department of Education.

''(13) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

''(14) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

''(15) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

''(A) at public expense, under public supervision and direction, and without tuition charge; and

''(B) as elementary school or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

''(16) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

''(17) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

''(18) LOCAL EDUCATIONAL AGENCY.—

''(A) IN GENERAL.—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 schools 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 the State's public elementary or secondary schools.

''(B) ADMINISTRATIVE CONTROL AND DIRECTION.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

''(C) BIA SCHOOLS.—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 such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such 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 such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(19) MENTORING.—The term 'mentoring', when used with respect to mentoring other than teacher mentoring, means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

''(20) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

''(21) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121 and any other discretionary grant program under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(22) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

''(23) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents on all levels of a school's operation, including all of the activities described in section 1118.

''(24) PUBLIC TELECOMMUNICATIONS ENTITY.—The term 'public telecommunication entity' has the same meaning given to such term in section 397 of the Communications Act of 1934.

''(25) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—

''(A) PUPIL SERVICES PERSONNEL.—The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined

in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

''(B) PUPIL SERVICES.—The term 'pupil services' means the services provided by pupil services personnel.

''(26) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' used with respect to an activity or a program, means an activity based on specific strategies and implementation of such strategies that, based on theory, research and evaluation, are effective in improving student achievement and performance and other program objectives.

''(27) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

''(28) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(29) 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.

''(30) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

''(31) TEACHER MENTORING.—The term 'teacher mentoring' means activities that—

''(A) consist of structured guidance and regular and ongoing support for beginning teachers, that—

''(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

''(ii) as part of a multiyear, developmental induction process—

''(I) involve the assistance of a mentor teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

''(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

''(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

''(32) TECHNOLOGY.—The term 'technology' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD–ROM discs, video and audio tapes, web-based learning resources, including online classes, interactive tutorials, and interactive tools and virtual environments for problem-solving, hand-held devices, wireless technology, voice recognition systems, and high-quality digital video, distance learning networks, visualization, modeling, and simulation software, and learning focused digital libraries and information retrieval systems.

''SEC. 4. MAINTENANCE OF EFFORT.

''(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

''(b) REDUCTION IN CASE OF FAILURE TO MEET.—

''(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

''(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

''(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

''(1) exceptional or uncontrollable circumstances such as a natural disaster; or

''(2) a precipitous decline in the financial resources of the local educational agency.

''SEC. 5. PROHIBITION REGARDING STATE AID.

''A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

''SEC. 6. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

''(a) PRIVATE SCHOOL PARTICIPATION.—

''(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

''(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

''(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

''(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

''(5) PROVISION OF SERVICES.—Such agency or consortium described in subsection (a)(1) may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section applies to programs under—

''(A) part C of title I (migrant education);

''(B) parts A and C of title II;

''(C) title III; and

''(D) part A of title IV (other than section 4114).

''(2) DEFINITION.—For the purposes of this section, the term ''eligible children'' means children eligible for services under a program described in paragraph (1).

''(c) CONSULTATION.—

''(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

''(A) how the children's needs will be identified;

''(B) what services will be offered;

''(C) how and where the services will be provided; and

''(D) how the services will be assessed.

''(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

''(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

''(d) PUBLIC CONTROL OF FUNDS.—

''(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

''(i) by employees of a public agency; or

''(ii) through contract by such public agency with an individual, association, agency, or organization.

''(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

''(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

''SEC. 7. STANDARDS FOR BY-PASS.

''If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 6, the Secretary shall—

''(1) waive the requirements of that section for such agency or consortium; and

''(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 6, 8, and 9.

''SEC. 8. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

''(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 6 by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or

organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

''(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

''SEC. 9. BY-PASS DETERMINATION PROCESS.

''(a) REVIEW.—

''(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 7 until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

''(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

''(2) PETITION FOR REVIEW.—(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 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.

''(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

''(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

''(3) FINDINGS OF FACT.—(A) 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 then 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.

''(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(4) JURISDICTION.—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

''(B) 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.

''(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 6 or any other provision of this Act.

''(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

''(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

''SEC. 10. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

''Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

''SEC. 11. APPLICABILITY TO HOME SCHOOLS.

''Nothing in this Act shall be construed to affect home schools.

''SEC. 12. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

''Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

''SEC. 13. SCHOOL PRAYER.

''Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

''SEC. 14. GENERAL PROHIBITIONS.

''(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

''(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

''(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

''(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

''(4) to operate a program of condom distribution in schools.

''(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

''(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

''(2) limit the application of the General Education Provisions Act;

''(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

''(4) create any legally enforceable right.

''SEC. 15. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

''Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.''.

TITLE I—BETTER RESULTS FOR DISADVANTAGED CHILDREN

SEC. 101. POLICY AND PURPOSE.

Section 1001 (20 U.S.C. 6301) is amended to read as follows:

''SEC. 1001. STATEMENT OF PURPOSE.

''The purpose of this title is to enable schools to provide opportunities for children served under this title to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State student performance standards developed for all children. This purpose should be accomplished by—

''(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

''(2) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

''(3) promoting schoolwide reform and ensuring access of children (from the earliest grades, including prekindergarten) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

''(4) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

''(5) coordinating services under all parts of this title with each other, with other educational services, and to the extent feasible, with other agencies providing services to youth, children, and families that are funded from other sources;

''(6) affording parents substantial and meaningful opportunities to participate in the education of their children at home and at school;

''(7) distributing resources in amounts sufficient to make a difference to local educational agencies and schools where needs are greatest;

''(8) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to measure how well children served under this title are achieving challenging State student performance standards expected of all children; and

''(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 1002 (20 U.S.C. 6302) is amended to read as follows:

''SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

''(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated $15,000,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) READING FIRST.—

''(1) EVEN START.—For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(2) READING FIRST.—For the purpose of carrying out subpart 2 of part B, there are authorized to be appropriated $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(3) EARLY READING FIRST.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated $75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part C, there are authorized to be appropriated $400,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.—For the purpose of carrying out part D, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(e) CAPITAL EXPENSES.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $15,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $5,000,000 for fiscal year 2004.

''(f) FEDERAL ACTIVITIES.—

''(1) SECTION 1501.—For the purpose of carrying out section 1501, there are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(2) SECTION 1502.—For the purpose of carrying out section 1502, there are authorized to be appropriated $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(g) 21ST CENTURY LEARNING CENTERS.—For the purpose of carrying out part F, there are authorized to be appropriated $1,500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(h) COMPREHENSIVE SCHOOL REFORM.—For the purpose of carrying out part G, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(i) SCHOOL DROPOUT PREVENTION.—For the purpose of carrying out part H, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years, of which—

''(1) 10 percent shall be available to carry out subpart 1 of part H for each fiscal year; and

''(2) 90 percent shall be available to carry out subpart 2 of part H for each fiscal year.''.

SEC. 103. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.

Section 1003 (20 U.S.C. 6303) is amended to read as follows:

''SEC. 1003. RESERVATION FOR SCHOOL IMPROVEMENT.

''(a) STATE RESERVATION.—Each State educational agency shall reserve 3.5 percent of the amount the State educational agency receives under subpart 2 of part A for each of the fiscal years 2002 and 2003, and 5 percent of that amount for each of the fiscal years 2004 through 2008, to carry out subsection (b) and to carry out the State educational agency's responsibilities under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

''(b) USES.—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency shall make available not less than 50 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, or reconstitution under section 1116(c).''.

PART A—BETTER RESULTS FOR DISADVANTAGED CHILDREN

SEC. 111. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended to read as follows:

''SEC. 1111. STATE PLANS.

''(a) PLANS REQUIRED.—

''(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary, by March 1, 2002, a plan that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Adult Education and Family Literacy Act, and the Head Start Act.

''(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 5506.

''(b) STANDARDS, ASSESSMENTS, AND ACCOUNTABILITY.—

''(1) CHALLENGING STANDARDS.—(A) Each State plan shall demonstrate that the State has adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

''(B) The standards required by subparagraph (A) shall be the same standards that the State applies to all schools and children in the State.

''(C) The State shall have the standards described in subparagraph (A) for all public elementary school and secondary school children served under this part in subjects determined by the State, but including at least mathematics, reading or language arts, history, and science, which shall include the same knowledge skills, and levels of achievement expected of all children, except that no State shall be required to meet the requirements under this part relating to history or science standards until the beginning of the 2005–2006 school year.

''(D) Standards under this paragraph shall include—

''(i) challenging content standards in academic subjects that—

''(I) specify what children are expected to know and be able to do;

''(II) contain coherent and rigorous content; and

''(III) encourage the teaching of advanced skills; and

''(ii) challenging student performance standards that—

''(I) are aligned with the State's content standards;

''(II) describe 2 levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

''(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

''(E) For the subjects in which students served under this part will be taught, but for which a State is not required by subparagraphs (A), (B), and (C) to develop standards, and has not otherwise developed standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

''(2) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that has been or will be effective in ensuring that all local educational agencies, elementary schools, and secondary schools make adequate yearly progress as defined under subparagraph (B). Each State accountability system shall—

''(i) be based on the standards and assessments adopted under paragraphs (1) and (3) and take into account the performance of all students;

''(ii) be used for all schools or all local educational agencies in the State, except that schools and local educational agencies not participating under this part are not subject to the requirements of section 1116(c);

''(iii) include performance indicators for local educational agencies and schools to measure student performance consistent with subparagraph (B); and

''(iv) include sanctions and rewards, such as bonuses or recognition, the State will use to hold local educational agencies and schools accountable for student achievement and performance and for ensuring that the agencies and schools make adequate yearly progress in accordance with the State's definition under subparagraph (B).

''(B) Adequate yearly progress shall be defined in accordance with subparagraph (D) and in a manner that—

''(i) applies the same high standards of academic performance to all students in the State;

''(ii) is statistically valid and reliable;

''(iii) results in continuous and substantial academic improvement for all students;

''(iv) measures the progress of schools and local educational agencies based primarily on the assessments described in paragraph (3);

''(v) includes annual measurable objectives for continuing and significant improvement in—

''(I) the achievement of all students; and

''(II) the achievement of economically disadvantaged students, students with disabilities, students with limited English proficiency, migrant students, students by racial and ethnic group, and students by gender, except that such disaggregation shall not be required in any case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student;

''(vi) includes a timeline for meeting the goal that each group of students described in clause (v) will meet or exceed the State's proficient level of performance on the State assessment used for the purposes of this section and section 1116 not later than 10 years after the date of enactment of the Better Education for Students and Teachers Act; and

''(vii) includes school completion or dropout rates and at least 1 other academic indicator, as determined by the States, except that inclusion of such indicators shall not decrease the number of schools or local educational agencies that would otherwise be subject to identification for improvement or corrective action if the discretionary indicators were not included.

''(C)(i) Each State plan shall include a detailed description of an objective system or formula that incorporates and gives appropriate weight to each of the elements described in subparagraph (B), including the progress of each of the groups of students described in subparagraph (B)(v)(II), in meeting the State's annual measurable objectives for continuing and significant improvement under subparagraph (B)(v) and in making progress toward the 10-year goal described in

subparagraph (B)(vi), and that is primarily based on academic progress as demonstrated by the assessments described in paragraph (3) in subjects for which assessments are required under this section, except that the State shall give greater weight to the groups—

''(I) performing at a level furthest from the proficient level; and

''(II) that make the greatest improvement.

''(ii) The system or formula shall be subject to peer review and approval by the Secretary under subsection (e). The Secretary shall not approve the system or formula unless the Secretary determines that the system or formula is sufficiently rigorous and reliable to ensure continuous and significant progress toward the goal of having all students proficient within 10 years.

''(D) A State shall define adequate yearly progress for the purpose of making determinations under this Act so that—

''(i) a school, local educational agency, or State, respectively, has failed to make adequate yearly progress if the school, local educational agency, or State, respectively, has not—

''(I) made adequate progress as determined by the system or formula described in subparagraph (C); or

''(II) for each group of students described in subparagraph (B)(v)(II) (other than those groups formed by gender and migrant status), achieved an increase of not less than 1 percent, in the percentage of students served by the school, local educational agency, or State, respectively, meeting the State's proficient level of performance in reading or language arts and mathematics, for a school year compared to the preceding school year; and

''(ii) for the purpose of making determinations under clause (i) (I) or (II), the State may establish a uniform procedure for averaging data from the school year for which the determination is made and 1 or 2 school years preceding such school year.

''(E) Each State shall ensure that in developing its plan, the State diligently seeks public comment from a range of institutions and individuals in the State with an interest in improved student achievement and performance, including parents, teachers, local educational agencies, pupil services personnel, administrators (including those described in other parts of this title), and other staff, and that the State will continue to make a substantial effort to ensure that information under this part is widely known and understood by the public, parents, teachers, and school administrators throughout the State. Such efforts shall include, at a minimum, publication of such information and explanatory text, broadly to the public through such means as the Internet, the media, and public agencies.

''(F) If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student performance standards, and assessments aligned with such standards, which will be applicable to all students enrolled in the State's public schools, the State educational agency may meet the requirements of this subsection by—

''(i) adopting standards and assessments that meet the requirements of this subsection, on a statewide basis, and limiting the applicability of the standards and assessments to students served under this part; or

''(ii) adopting and implementing policies that ensure that each local educational agency in the State which receives a grant under this part will adopt curriculum content and student performance standards, and assessments aligned with such standards, which meet all of the criteria of this subsection.

''(G) Each State plan shall provide that in order for a school to make adequate yearly progress under subparagraph (B), not less than 95 percent of each group of students described in subparagraph (B)(v)(II), who are enrolled in the school at the time of the administration of the assessments, shall take the assessments (in accordance with paragraphs (3)(G)(ii) and (3)(H), and with accommodations, guidelines and alternate assessments provided in the same manner as they are provided under section 612(a)(17)(A) of the Individuals with Disabilities Education Act) on which adequate yearly progress is based, except that nothing in this subparagraph shall be construed to limit the requirement under paragraph (3)(G)(i) to assess all students.

''(3) ASSESSMENTS.—Each State plan shall demonstrate that the State, in consultation with local educational agencies, has a system of high-quality, yearly student assessments in subjects that include, at a minimum, mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of each local educational agency and school in enabling all children to meet the State's student performance standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year. Such assessments shall—

''(A) be the same assessments used to measure the performance of all children;

''(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

''(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

''(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered not less than 1 or more times during—

''(i) grades 3 through 5;

''(ii) grades 6 through 9; and

''(iii) grades 10 through 12;

''(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

''(F) beginning not later than school year 2005–2006, measure the annual performance of students against the challenging State content and student performance standards in grades 3 through 8 in at least mathematics and reading or language arts, except that—

''(i) the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school, prevented full implementation of the assessments by that deadline and that the State will complete the implementation within the additional 1-year period; and

''(ii) a State shall not required to conduct any assessments under this subparagraph, that were not required on the day preceding the date of enactment of the Better Education for Students and Teachers Act, in any school year, if the amount made available to the State under section 6403(a) for use in that school year for such assessments is less than 50 percent of the costs of administering such assessments by the State in the previous school year, or if such assessments were not administered in the previous school year (in accordance with this clause), in the most recent school year in which such assessments were administered;

''(G) provide for—

''(i) the participation in such assessments of all students;

''(ii) the reasonable adaptations and accommodations for students with disabilities defined under section 602(3) of the Individuals with Disabilities Education Act necessary to measure the achievement of such students relative to State content and State student performance standards;

''(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do in content areas; and

''(iv) notwithstanding clause (iii), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (excluding the Commonwealth of Puerto Rico) for 3 or more consecutive school years, except that—

''(I) if the local educational agency determines, on a case-by-case individual basis, that assessments in another language and form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may assess such student in the appropriate language other than English for 1 additional year; or

''(II) in extraordinary situations, if the local educational agency determines, on a case-by-case individual basis, that assessments in another language and form would likely yield more accurate and reliable information, the local educational agency may assess such student in the appropriate language for additional years;

''(H) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

''(I) produce individual student interpretive and descriptive reports to be provided to parents of all students, which shall include scores, or other information on the attainment of student performance standards, such as measures of student course work over time, student attendance rates, student dropout rates, and student participation in advanced level courses; and

''(J) enable results to be disaggregated within each State, local educational agency, and school by gender, by racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that in the case of a local educational agency or a school such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student.

''(4) SPECIAL RULES.—(A) Additional measures that do not meet the requirements of paragraph (3)(C) may be included in the assessments if a State includes in the State plan information regarding the State's efforts to validate such measures.

''(B) States may measure the proficiency of students in the academic subjects in which a State has adopted challenging content and

student performance standards 1 or more times during grades kindergarten through 2.

''(5) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages but shall not mandate a specific assessment or mode of instruction.

''(6) REQUIREMENT.—Each State plan shall describe—

''(A) how the State educational agency will help each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 1112(c)(4), 1114(b), and 1115(c) that is applicable to such agency or school; and

''(B) such other factors the State deems appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

''(7) ED-FLEX.—A State shall not be eligible for designation under the Ed-Flex Partnership Act of 1999 until the State develops assessments aligned with the State's content standards in at least mathematics and reading or language arts.

''(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

''(1) the State will meet the requirements of subsection (i)(1) and, beginning with the 2002–2003 school year, will produce the annual State report cards described in such subsection;

''(2) the State will, beginning in school year 2002–2003, participate in annual State assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 411(b)(2) of the National Education Statistics Act of 1994 if the Secretary pays the costs of administering such assessments;

''(3) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 1119, technical assistance under section 1117, and parental involvement under section 1118;

''(4)(A) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

''(B) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

''(5) the State educational agency will notify local educational agencies and the public of the content and student performance standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

''(6) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

''(7) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic performance;

''(8) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

''(9) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 1114;

''(10) the State educational agency has involved the committee of practitioners established under section 1903(b) in developing the plan and monitoring its implementation;

''(11) the State educational agency will inform local educational agencies of the local educational agency's authority to obtain waivers under subpart 3 of part B of title V and, if the State is an Ed-Flex Partnership State, waivers under the Education Flexibility Partnership Act of 1999; and

''(12) the State will coordinate activities funded under this part with other Federal activities as appropriate.

''(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

''(1) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children; and

''(2) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents.

''(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

''(1) SECRETARIAL DUTIES.—The Secretary shall—

''(A) establish a peer review process to assist in the review of State plans;

''(B) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, local educational agencies, and who are familiar with educational standards, assessments, accountability, and other diverse educational needs of students;

''(C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

''(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

''(E) not decline to approve a State's plan before—

''(i) offering the State an opportunity to revise its plan;

''(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

''(iii) providing a hearing; and

''(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan 1 or more specific elements of the State's content standards or to use specific assessment instruments or items.

''(2) STATE REVISIONS.—States shall revise their plans if necessary to satisfy the requirements of this section.

''(f) PROVISION OF TESTING RESULTS TO PARENTS AND TEACHERS.—Each State plan shall demonstrate how the State educational agency will assist local educational agencies in assuring that results from the assessments required under this section will be provided to parents and teachers as soon as is practicably possible after the test is taken, in a manner and form that is understandable and easily accessible to parents and teachers.

''(g) DURATION OF THE PLAN.—

''(1) IN GENERAL.—Each State plan shall—

''(A) remain in effect for the duration of the State's participation under this part; and

''(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

''(2) ADDITIONAL INFORMATION.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

''(h) LIMITATION ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

''(i) PENALTY.—If a State fails to meet the statutory deadlines for demonstrating that it has in place challenging content standards and student performance standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold funds for State administration and activities under section 1117 until the Secretary determines that the State plan meets the requirements of this section.

''(j) REPORTS.—

''(1) ANNUAL STATE REPORT CARD.—

''(A) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual State report card.

''(B) IMPLEMENTATION.—The State report card shall be—

''(i) concise; and

''(ii) presented in a format and manner that parents can understand, and which, to the extent practicable, shall be in a language the parents can understand.

''(C) PUBLIC DISSEMINATION.—The State shall widely disseminate the information described in subparagraph (D) to all schools and local educational agencies in the State and make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies.

''(D) REQUIRED INFORMATION.—The State shall include in its annual State report card—

''(i) information, in the aggregate, on student achievement and performance at each proficiency level on the State assessments described in subsection (b)(3)(F) (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and socioeconomic status);

''(ii) the percentage of students not tested (disaggregated by the same categories described in clause (i));

''(iii) the most recent 2-year trend in student performance in each subject area, and for each grade level, for which assessments under section 1111 are required;

''(iv) aggregate information included in all other indicators used by the State to determine the adequate yearly progress of students in achieving State content and student performance standards;

''(v) average 4-year graduation rates and annual school dropout rates disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and socioeconomic status, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student;

''(vi) the percentage of teachers teaching with emergency or provisional credentials (disaggregated by high poverty and low poverty schools which for purposes of this clause means schools in which 50 percent or more, or less than 50 percent, respectively, of the students are from low-income families), and the percentage of classes not taught by highly qualified teachers in such high poverty schools;

''(vii) the number and names of each school identified for school improvement, including schools identified under section 1116(c); and

''(viii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and percentage of schools in the State that did not make adequate yearly progress.

''(E) PERMISSIVE INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and secondary schools. Such information may include information regarding—

''(i) school attendance rates;

''(ii) average class size in each grade;

''(iii) academic achievement and gains in English proficiency of limited English proficient students;

''(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

''(v) the extent of parental participation in the schools;

''(vi) parental involvement activities;

''(vii) extended learning time programs such as after-school and summer programs;

''(viii) the percentage of students completing advanced placement courses;

''(ix) the percentage of students completing college preparatory curricula; and

''(x) student access to technology in school.

''(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

''(A) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this Act shall prepare and disseminate an annual local educational agency report card.

''(B) MINIMUM REQUIREMENTS.—The State shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(D) as applied to the local educational agency and each school served by the local educational agency, and—

''(i) in the case of a local educational agency—

''(I) the number and percentage of schools identified for school improvement and how long they have been so identified, including schools identified under section 1116(c); and

''(II) information that shows how students served by the local educational agency perform on the statewide assessment compared to students in the State as a whole; and

''(ii) in the case of a school—

''(I) whether the school has been identified for school improvement; and

''(II) information that shows how the school's students performed on the statewide assessment compared to students in the local educational agency and the State as a whole.

''(C) OTHER INFORMATION.—A local educational agency may include in its annual reports any other appropriate information whether or not such information is included in the annual State report.

''(D) DATA.—A local educational agency or school shall only include in its annual local educational agency report card data that is sufficient to yield statistically reliable information, as determined by the State, and does not reveal individually identifiable information about an individual student.

''(E) PUBLIC DISSEMINATION.—The local educational agency shall, not later than the beginning of the 2002–2003 school year, publicly disseminate the information described in this paragraph to all schools in the school district and to all parents of students attending those schools, and make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

''(3) PREEXISTING REPORT CARDS.—A State or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the State, may continue to use those reports for the purpose of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection.

''(4) ANNUAL STATE REPORT TO THE SECRETARY.—Each State receiving assistance under this Act shall report annually to the Secretary, and make widely available within the State—

''(A) beginning with school year 2001–2002, information on the State's progress in developing and implementing the assessments described in subsection (b)(3);

''(B) beginning not later than school year 2004–2005, information on the achievement of students on the assessments required by that section, including the disaggregated results for the categories of students identified in subsection (b)(2)(B)(v)(II);

''(C) the number and names of each school identified for school improvement, including schools identified under section 1116(c), the reason why each school was so identified, and the measures taken to address the performance problems of such schools; and

''(D) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student assessments (including disaggregated results) required under this section.

''(5) PARENTS RIGHT-TO-KNOW.—

''(A) QUALIFICATIONS.—A local educational agency that receives funds under this part shall provide and notify the parents of each student attending any school receiving funds under this part that the parents may request, and will be provided on request, information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

''(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

''(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

''(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

''(iv) Whether the child is provided services by paraprofessionals and the qualifications of such paraprofessional.

''(B) ADDITIONAL INFORMATION.—A school that receives funds under this part shall provide to parents information on the level of performance, of the individual student for whom they are the parent, in each of the State assessments as required under this part.

''(C) FORMAT.—The notice and information provided to parents shall be in an understandable and uniform format.

''(k) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

''(l) TECHNICAL ASSISTANCE.—The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality assessments and other relevant areas.''.

SEC. 112. LOCAL EDUCATIONAL AGENCY PLANS.

Section 1112 (20 U.S.C. 6312) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''the Goals'' and all that follows through ''section 14306'' and inserting ''the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Head Start Act, and other Acts, as appropriate''; and

(B) in paragraph (2), by striking ''14304'' and inserting ''5504'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(D) determine the literacy levels of first graders and their needs for interventions, including a description of how the agency will ensure that any such assessments—

''(i) are developmentally appropriate;

''(ii) use multiple measures to provide information about the variety of skills that research has identified as leading to early reading; and

''(iii) are administered to students in the language most likely to yield valid results;'';

(B) in paragraph (3), by inserting '', which strategy shall be coordinated with activities under title II if the local educational agency receives funds under title II'' before the semicolon;

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by striking ''programs, vocational'' and inserting ''programs and vocational''; and

(II) by striking '', and school-to-work transition programs''; and

(ii) in subparagraph (B)—

(I) by striking ''served under part C'' and all that follows through ''1994''; and

(II) by striking ''served under part D''; and

(D) by striking paragraph (9) and inserting the following:

''(9) where appropriate, a description of how the local educational agency will use funds under this part to support early childhood education programs under section 1120B; and

''(10) a description of the strategy the local educational agency will use to implement effective parental involvement under section 1118.'';

(3) by amending subsection (c) to read as follows:

''(c) ASSURANCES.—Each local educational agency plan shall provide assurances that the local educational agency will—

''(1) inform eligible schools and parents of schoolwide project authority;

''(2) provide technical assistance and support to schoolwide programs;

''(3) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

''(4) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(5);

''(5) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;

''(6) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

''(7) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

''(8) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part;

''(9) comply with the requirements of section 1119 regarding professional development;

''(10) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under subpart 3 of part B of title V, and if the State is an Ed-Flex Partnership State, waivers under the Education Flexibility Partnership Act of 1999;

''(11) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

''(12) use the results of the student assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this title to determine whether or not all of the schools are making the annual progress necessary to ensure that all students will meet the State's proficient level of performance on the State assessments described in section 1111(b)(3) within 10 years of the date of enactment of the Better Education for Students and Teachers Act; and

''(13) ensure that the results from the assessments required under section 1111 will be provided to parents and teachers as soon as is practicably possible after the test is taken, in a manner and form that is understandable and easily accessible to parents and teachers.''; and

(4) in subsection (e)—

(A) in paragraph (1), by striking '', except that'' and all that follows through ''finally approved by the State educational agency''; and

(B) in paragraph (3)—

(i) by striking ''professional development''; and

(ii) by striking ''section 1119'' and inserting ''sections 1118 and 1119''.

SEC. 113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

Section 1113(b)(1) (20 U.S.C. 6313(b)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' after the semicolon;

(2) in subparagraph (C)(iii), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) designate and serve a school attendance area or school that is not an eligible school attendance area under subsection (a)(2), but that was an eligible school attendance area and was served in the fiscal year preceding the fiscal year for which the determination is made, but only for 1 additional fiscal year.''.

SEC. 114. SCHOOLWIDE PROGRAMS.

Section 1114 (20 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—A local educational agency may use funds under this part, together with other Federal, State, and local funds, to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families, for the initial year of the schoolwide program.''; and

(B) in paragraph (4)—

(i) by amending the heading to read as follows: ''EXEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS.—''; and

(ii) by adding at the end the following:

''(C) A school that chooses to use funds from such other programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the programs that were consolidated to support the schoolwide program.''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B)(vii), by striking '', if any, approved under title III of the Goals 2000: Educate America Act''; and

(ii) in subparagraph (E), by striking '', such as family literacy services'' and inserting ''(including activities described in section 1118), such as family literacy services, in-school volunteer opportunities, or parent membership on school-based leadership or management teams.''; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking ''Improving America's Schools Act of 1994'' and inserting ''Better Education for Students and Teachers Act''; and

(II) in clause (iv), by inserting ''in a language the family can understand'' after ''assessment results''; and

(ii) in subparagraph (C)—

(I) in clause (i)(II), by striking ''Improving America's Schools Act of 1994'' and inserting ''Better Education for Students and Teachers Act''; and

(II) in clause (v), by striking ''the School-to-Work Opportunities Act of 1994''.

SEC. 115. TARGETED ASSISTANCE SCHOOLS.

Section 1115 (20 U.S.C. 6315) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(ii), by striking '', yet'' and all that follows through ''setting''; and

(B) in paragraph (2)—

(i) in subparagraph (B), insert ''or in early childhood education services under this title,'' after ''program,''; and

(ii) in subparagraph (C)(i), by striking ''under part D (or its predecessor authority)''; and

(2) in subsection (c)(1)—

(A) by amending subparagraph (G) to read as follows:

''(G) provide opportunities for professional development with resources provided under this part, and to the extent practicable, from other sources, for teachers, principals, administrators, paraprofessionals, pupil services personnel, and parents, who work with participating children in programs under this section or in the regular education program; and''; and

(B) in subparagraph (H), by striking '', such as family literacy services'' and inserting ''(including activities described in section 1118), such as family literacy services, in-school volunteer opportunities, or parent membership on school-based leadership or management teams.''.

SEC. 116. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A (20 U.S.C. 6316) the following:

''SEC. 1115B. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

''(a) IN GENERAL.—If a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and—

''(1) becomes a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency shall allow such student to transfer to another public school or public charter school in the same State as the school where the criminal offense occurred, that is selected by the student's parent unless allowing such transfer is prohibited—

''(A) under the provisions of a State or local law; or

''(B) by a local educational agency policy that is approved by a local school board; or

''(2) the public school that the student attends and that receives assistance under this part has been designated as an unsafe public school, then the local educational agency may allow such student to transfer to another public school or public charter school in the same State as the school where the criminal offense occurred, that is selected by the student's parent.

''(b) STATE EDUCATIONAL AGENCY DETERMINATIONS.—

''(1) The State educational agency shall determine, based upon State law, what actions constitute a violent criminal offense for purposes of this section.

''(2) The State educational agency shall determine which schools in the State are unsafe public schools.

''(3) The term 'unsafe public schools' means a public school that has serious crime, violence, illegal drug, and discipline problems, as indicated by conditions that may include high rates of—

''(A) expulsions and suspensions of students from school;

''(B) referrals of students to alternative schools for disciplinary reasons, to special programs or schools for delinquent youth, or to juvenile court;

''(C) victimization of students or teachers by criminal acts, including robbery, assault and homicide;

''(D) enrolled students who are under court supervision for past criminal behavior;

''(E) possession, use, sale or distribution of illegal drugs;

''(F) enrolled students who are attending school while under the influence of illegal drugs or alcohol;

''(G) possession or use of guns or other weapons;

''(H) participation in youth gangs; or

''(I) crimes against property, such as theft or vandalism.

''(c) TRANSPORTATION COSTS.—The local educational agency that serves the public school in which the violent criminal offense occurred or that serves the designated unsafe public school may use funds provided under this part to provide transportation services or to pay the reasonable costs of transportation for the student to attend the school selected by the student's parent.

''(d) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

''(e) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(f) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student who elects a transfer under this section shall not exceed the per pupil expenditures for elementary or secondary school students as provided by the local educational agency that serves the school involved in the transfer.''.

SEC. 117. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

Section 1116 (20 U.S.C. 6317) is amended to read as follows:

''SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

''(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

''(1) use the State assessments described in the State plan;

''(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(B) toward enabling its students to meet the State's student performance standards described in the State plan;

''(3) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards; and

''(4) annually review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement activities under section 1118, professional development activities under section 1119, and other activities assisted under this Act.

''(b) DESIGNATION OF DISTINGUISHED SCHOOLS.—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

''(c) SCHOOL IMPROVEMENT.—

''(1) SCHOOL IMPROVEMENT.—(A) Subject to subparagraph (B), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for any year, to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)(B).

''(B) Subparagraph (A) shall not apply to a school if almost every student in such school is meeting the State's proficient level of performance.

''(C) To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement under this subsection, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

''(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT.—(A) Before identifying an elementary school or a secondary school for school improvement under paragraph (1), for corrective action under paragraph (7), or for reconstitution under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based.

''(B) If the principal of a school proposed for identification under paragraph (1), (7), or (8) believes that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

''(C) Not later than 30 days after a local educational agency makes an initial determination concerning identifying a school under paragraph (1), (7), or (8), the local educational agency shall make public a final determination on the status of the school.

''(3) SCHOOL PLAN.—(A) Each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, the local school board, and other outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

''(i) incorporate scientifically based research strategies that strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement;

''(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 1111(b)(2)(B)(v)(II) and enrolled in the school will meet the State's proficient level of performance on the State assessment described in section 1111(b)(3) within 10 years after the date of enactment of the Better Education for Students and Teachers Act;

''(iii) provide an assurance that the school will reserve not less than 10 percent of the funds made available to the school under this part for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that—

''(I) directly addresses the academic performance problem that caused the school to be identified for school improvement; and

''(II) meets the requirements for professional development activities under section 1119;

''(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

''(v) establish specific annual, objective goals for continuous and significant progress by each group of students specified in section 1111 (b)(2)(B)(v)(II) and enrolled in the school that will ensure that all such groups of students will meet the State's proficient level of performance on the State assessment described in section 1111(b)(3) within 10 years after the date of enactment of the Better Education for Students and Teachers Act;

''(vi) identify how the school will provide written notification about the identification to the parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand;

''(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4); and

''(viii) include strategies to promote effective parental involvement in the school.

''(B) The local educational agency may condition approval of a school plan on inclusion of 1 or more of the corrective actions specified in paragraph (7)(D)(ii).

''(C) A school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the school year following the school year in which the school was identified for school improvement.

''(D) The local educational agency, within 45 days after receiving a school plan, shall—

''(i) establish a peer-review process to assist with review of a school plan prepared by a school served by the local educational agency; and

''(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

''(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall provide technical assistance as the school develops and implements the school plan.

''(B) Such technical assistance—

''(i) shall include assistance in analyzing data from the assessments required under section 1111(b)(3), and other samples of student work, to identify and address instructional problems and solutions;

''(ii) shall include assistance in identifying and implementing instructional strategies and methods that are tied to scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

''(iii) shall include assistance in analyzing and revising the school's budget so that the school resources are more effectively allocated for the activities most likely to increase student performance and to remove the school from school improvement status; and

''(iv) may be provided—

''(I) by the local educational agency, through mechanisms authorized under section 1117; or

''(II) by the State educational agency, an institution of higher education (in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve performance.

''(C) Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

''(5) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION.—In the case of any school served under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2)(B), at the end of the first year after the school year for which the school was

identified under paragraph (1), the local educational agency serving such school—

''(A) shall provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless—

''(i) such an option is prohibited by State law or local law, which includes school board approved local educational agency policy; or

''(ii) the local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide that option to all students in the school who request the option, in which case the local educational agency shall permit as many students as possible (selected by the agency on an equitable basis) to make such a transfer, after giving notice to the parents of affected children that it is not possible, consistent with State and local law, to accommodate the transfer request of every student;

''(B) may identify the school for, and take, corrective action under paragraph (7); and

''(C) shall continue to provide technical assistance while instituting any corrective action.

''(6) NOTIFICATION TO PARENTS.—A local educational agency shall promptly provide (in a format and, to the extent practicable, in a language the parents can understand) the parents of each student in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for reconstitution under paragraph (8)—

''(A) an explanation of what the identification means, and how the school compares in terms of academic performance to other elementary schools or secondary schools served by the State educational agency and the local educational agency involved;

''(B) the reasons for the identification;

''(C) an explanation of what the school is doing to address the problem of low performance;

''(D) an explanation of what the State educational agency or local educational agency is doing to help the school address the performance problem;

''(E) an explanation of how parents described in this paragraph can become involved in addressing the academic issues that caused the school to be identified; and

''(F) when the school is identified for corrective action under paragraph (7) or for reconstitution under paragraph (8), an explanation of the parents' option to transfer their child to another public school (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental services for the child, in accordance with those paragraphs.

''(7) CORRECTIVE ACTION.—(A) In this subsection, the term 'corrective action' means action, consistent with State and local law, that—

''(i) substantially and directly responds to—

''(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

''(II) any underlying staffing, curriculum, or other problem in the school; and

''(ii) is designed to increase substantially the likelihood that students enrolled in the school identified for corrective action will perform at the State's proficient and advanced levels of performance on the State assessment described in section 1111(b)(3).

''(B) In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (F) and paragraph (8).

''(C) In the case of any school served by the local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2)(B), at the end of the second year after the school year for which the school was identified under paragraph (1), the local educational agency shall—

''(i) except as provided in subparagraph (D)(i)(I), provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless—

''(I) such an option is prohibited by State law or local law; or

''(II) the local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide that option to all students in the school who request the option, in which case the local educational agency shall permit as many students as possible (giving priority to the lowest achieving students) to make such a transfer;

''(ii) identify the school for corrective action and take at least one of the following corrective actions:

''(I) Make alternative governance arrangements, such as reopening the school as a public charter school.

''(II) Replace the relevant school staff.

''(III) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is tied to scientifically based research and offers substantial promise of improving educational performance for low-performing students; and

''(iii) continue to provide technical assistance to the school.

''(D) If a school described in subparagraph (C) fails to make adequate yearly progress for each of the three years preceding the school year for which the school was identified under this paragraph, in the same subject for the same group of students from among the groups described in section 1111(b)(2)(B)(v)(II), then the local educational agency shall do each of the following:

''(i)(I) Provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1).

''(II) If all public schools in the local educational agency to which children may transfer are identified under paragraph (1) or this paragraph, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for the transfer of as many of those children as possible, selected by the agency on an equitable basis.

''(ii) Make supplemental educational services available, in accordance with subsection (f), to children who remain in the school.

''(E) A local educational agency may delay, for a period not to exceed one year, implementation of corrective action only if the school's failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

''(F) The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school to the public through such means as the Internet, the media, and public agencies.

''(8) RECONSTITUTION.—(A) If, after one year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress and fails to make adequate yearly progress for economically disadvantaged students in the same subject for each of the three years preceding the school year for which the school was identified under this paragraph, then the local educational agency shall—

''(i) provide all students enrolled in the school with the option to transfer to another public school in accordance with paragraph (7)(D)(i);

''(ii) make supplemental educational services available, in accordance with subsection (f), to children who remain in the school; and

''(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

''(B) Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement at least one of the following alternative governance arrangements for the school, consistent with State law:

''(i) Reopening the school as a public charter school.

''(ii) Replacing all or most of the school staff.

''(iii) Turning the operation of the school over to another entity, such as a private contractor, with a demonstrated record of success.

''(iv) Turning the operation of the school over to the State, if agreed to by the State.

''(v) Any other major restructuring of the school's governance arrangement.

''(C) The local educational agency shall provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies, shall provide the teachers and parents an adequate opportunity to comment before taking any action under those subparagraphs and to participate in developing any plan under subparagraph (A)(iii).

''(9) TRANSPORTATION.—In any case described in paragraph (7)(D), the local educational agency—

''(A) shall provide, or shall pay for the provision of, transportation for the student to the school the child attends, notwithstanding subsection (f)(1)(C)(ii); and

''(B) may use not more than a total of 15 percent of the local educational agency's allocation under this part for a fiscal year for that transportation or for supplemental services under subsection (f).

''(10) DURATION OF RECONSTITUTION.—If any school identified for reconstitution under paragraph (8) makes adequate yearly progress for two consecutive years, the local educational agency need no longer subject the school to corrective action or identify the school as in need of improvement for the succeeding school year.

''(11) SPECIAL RULES.—(A) A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school, and shall continue to provide or provide for transportation for the child to attend that school to the extent required by paragraph (9)(B) until the child leaves that school.

''(B) In determining whether a school has made adequate yearly progress for any year under this subsection, a local educational agency shall consider the amount of progress that was expected to be made during that particular year in meeting the objectives described under section 1111(b)(2)(B), and may consider the extent to which the school failed to make progress in other years.

''(C) The Secretary, through negotiated rulemaking, shall establish regulations that set guidelines for addressing the accumulated progress deficits for schools subject to

corrective action and reconstitution under this subsection. Such guidelines shall establish rigorous, reasonable, and equitable standards and a timeline for improving student performance to a proficient level as soon as possible.

''(12) SCHOOLS PREVIOUSLY IDENTIFIED FOR SCHOOL IMPROVEMENT OR CORRECTIVE ACTION.—

''(A) SCHOOL IMPROVEMENT.—(i) Except as provided in clauses (ii) and (iii), any school that was in school improvement status under this subsection on the day preceding the date of enactment of the Better Education for Students and Teachers Act shall be treated by the local educational agency, at the beginning of the next school year following such day, as a school that is in the first year of school improvement under paragraph (1).

''(ii) Any school that was in school improvement status under this subsection for the two school years preceding the date of enactment of the Better Education for Students and Teachers Act shall be treated by the local educational agency, at the beginning of the next school year following such day, as a school described in paragraph (7)(C) and subject to paragraph (7)(D).

''(iii) Any school described in clause (ii) that fails to make adequate yearly progress for the first full school year following the date of enactment of the Better Education for Students and Teachers Act, and that fails to make adequate yearly progress for each of the two school years preceding such date in the same subject for any group described in section 1111(b)(2)(B)(v)(II), shall be subject to paragraph (7)(D) at the beginning of the next school year.

''(iv) Any school described in clause (iii) that fails to make adequate yearly progress for the second full school year following the date of enactment of the Better Education for Students and Teachers Act, and that fails to make adequate yearly progress for each of the two years following such date in the same subject for economically disadvantaged students, shall be subject to paragraph (8) at the beginning of the next school year.

''(B) CORRECTIVE ACTION.—(i) Any school that was in corrective action status under this subsection on the day preceding the date of enactment of the Better Education for Students and Teachers Act, and that fails to make adequate yearly progress for the school year following such date, shall be subject to paragraph (7)(D) at the beginning of the next school year.

''(ii) Any school described in clause (i) that fails to make adequate yearly progress for the second school year following such date shall be subject to paragraph (8) at the beginning of the next school year.

''(13) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

''(A) make technical assistance under section 1117 available to all schools identified for school improvement and corrective action under this subsection, to the extent possible with funds reserved under section 1003; and

''(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines appropriate and in compliance with State law.

''(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

''(1) IN GENERAL.—A State educational agency shall review annually—

''(A) the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 1111(b)(2)(B) toward meeting the State's student performance standards and to determine whether each local educational agency is carrying out its responsibilities under section 1116 and section 1117; and

''(B) the effectiveness of the activities carried out under this part by each local educational agency that receives funds under this part and is served by the State educational agency with respect to parental involvement, professional development, and other activities assisted under this part.

''(2) REWARDS.—In the case of a local educational agency that for 3 consecutive years has met or exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(B), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117(c).

''(3) IDENTIFICATION.—(A) A State educational agency shall identify for improvement any local educational agency that for 2 consecutive years, is not making adequate progress as defined in section 1111(b)(2)(B) in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part.

''(B) Before identifying a local educational agency for improvement under this paragraph, the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

''(4) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, revise and implement a local educational agency plan as described under section 1112. The plan shall—

''(i) include specific State-determined yearly progress requirements in subjects and grades to ensure that all students will meet proficient levels of performance within 10 years;

''(ii) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-performing students including a determination of why the local educational agency's prior plan failed to bring about increased student achievement and performance;

''(iii) incorporate scientifically based research strategies that strengthen the core academic program in the local educational agency;

''(iv) address the professional development needs of the instructional staff by committing to spend not less than 10 percent of the funds received by the local educational agency under this part during 1 fiscal year for professional development (including funds reserved for professional development under subsection (c)(3)(A)(iii)), which funds shall supplement and not supplant professional development that instructional staff would otherwise receive, and which professional development shall increase the content knowledge of teachers and build the capacity of the teachers to align classroom instruction with challenging content standards and to bring all students to proficient or advanced levels of performance as determined by the State;

''(v) identify specific goals and objectives the local educational agency will undertake for making adequate yearly progress, which goals and objectives shall be consistent with State standards;

''(vi) identify how the local educational agency will provide written notification regarding the identification to parents of students enrolled in elementary schools and secondary schools served by the local educational agency in a format, and to the extent practicable, in a language that the parents can understand;

''(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including technical assistance to be provided by the State educational agency under paragraph (5); and

''(viii) include strategies to promote effective parental involvement in the school.

''(5) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance, as authorized under section 1117, to better enable the local educational agency to—

''(i) develop and implement the local educational agency's revised plan; and

''(ii) work with schools needing improvement.

''(B) Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies tied to scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 1118 and the professional development activities described in section 1119.'';

''(6) CORRECTIVE ACTION.—(A)(i) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3), but shall take such action, consistent with State and local law, with respect to any local educational agency that continues to fail to make adequate progress at the end of the second year following identification under paragraph (3).

''(ii) The State educational agency shall continue to provide technical assistance while implementing any corrective action.

''(B) Consistent with State and local law, in the case of a local educational agency subject to corrective action under this paragraph, the State educational agency shall not take less than 1 of the following corrective actions:

''(i) Instituting and fully implementing a new curriculum that is based on State and local standards, including appropriate professional development tied to scientifically based research for all relevant staff that offers substantial promise of improving educational achievement for low-performing students.

''(ii) Restructuring or abolishing the local educational agency.

''(iii) Reconstituting school district personnel.

''(iv) Removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools.

''(v) Appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

''(vi) Deferring, reducing, or withholding funds.

''(C) HEARING.—Prior to implementing any corrective action under this paragraph, the

State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

''(D) NOTIFICATION TO PARENTS.—The State educational agency shall publish, and disseminate to parents and the public, any corrective action the State educational agency takes under this paragraph through a widely read or distributed medium.

''(E) DELAY.—A State educational agency may delay, for a period not to exceed one year, implementation of corrective action under this paragraph only if the local educational agency's failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

''(F) WAIVERS.—The State educational agency shall review any waivers approved prior to the date of enactment of the Better Education for Students and Teachers Act for a local educational agency designated for improvement or corrective action and shall terminate any waiver approved by the State under the Educational Flexibility Partnership Act of 1999 if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping the local educational agency make yearly progress to meet the objectives and specific goals described in the local educational agency's improvement plan.

''(7) SPECIAL RULES.—(A) If a local educational agency makes adequate progress toward meeting the State's standards for two consecutive years following identification under paragraph (3), the State educational agency need no longer subject the local educational agency to corrective action for the succeeding school year.

''(B) The Secretary, through negotiated rulemaking, shall establish regulations that set guidelines for determining adequate yearly progress for a local educational agency that was identified for corrective action under this subsection.

''(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

''(f) SUPPLEMENTAL SERVICES.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—In the case of any school described in subsection (c)(7)(D) or (c)(8)(A), the local educational agency serving such school shall, subject to subparagraphs (B) through (E), arrange for the provision of supplemental educational services to children in the school whose parents request those services, from providers approved for that purpose by the State educational agency and selected by the parents.

''(B) MAXIMUM ALLOCATION.—The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection is equal to the lesser of—

''(i) the amount of the agency's allocation under subpart 2 of this part, divided by the number of children from low-income families enrolled in the agency's schools; or

''(ii) the actual costs of the supplemental educational services received by the child.

''(C) FINANCIAL OBLIGATION OF LEA.—The local educational agency shall enter into agreements with such approved providers to provide services under this subsection to all children whose parents request the services, except that—

''(i) the local educational agency may use not more than a total of 15 percent of its allocation under this part for any fiscal year to pay for services under this subsection or to provide or provide for transportation under subsection (c)(9); and

''(ii) the total amount described in clause (i) is the maximum amount the local educational agency is required to spend under this part on those services.

''(D) INSUFFICIENT FUNDS.—If the amount of funds described in subparagraph (C) available to provide services under this subsection is insufficient to provide those services to each child whose parents request the services, then the local educational agency shall give priority to providing the services to the lowest-achieving children.

''(E) PROHIBITION.—A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under this part to a school described in subsection (c)(7)(D) or (c)(8)(A).

''(2) ADDITIONAL LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational agency subject to this subsection shall—

''(A) provide annual notice to parents (in a format and, to the extent practicable, in a language the parents can understand) of—

''(i) the availability of services under this subsection;

''(ii) the eligible providers of those services that are within the school district served by the agency or whose services are reasonably available in neighboring school districts; and

''(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

''(B) provide annual notice to potential providers of supplemental services in the school district of the agency of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be a provider of those services;

''(C) if requested, assist parents to choose a provider from the list of approved providers maintained by the State;

''(D) apply fair and equitable procedures for serving students if spaces at eligible providers are not sufficient to serve all students;

''(E) enter into an agreement with each selected provider that includes a statement for each child, developed with the parents of the child and the provider, of specific performance goals for the student, how the student's progress will be measured, and how the parents and the child's teachers will be regularly informed of the child's progress and that, in the case of a child with disabilities, is consistent with the child's individualized education program under section 614(d) of the Individuals with Disabilities Education Act; and

''(F) not disclose to the public the identity of any child eligible for, or receiving, supplemental services under this subsection without the written permission of the parents of the child.

''(3) ADDITIONAL STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—Each State educational agency shall, in consultation with local educational agencies, parents, teachers, and other interested members of the public—

''(A) promote maximum participation under this subsection by service providers to ensure, to the extent practicable, that parents have as many choices of those providers as possible;

''(B) develop and apply objective criteria to potential service providers that are based on demonstrated effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State content and student performance standards adopted under section 1111(b)(1);

''(C) maintain an updated list of approved service providers in school districts served by local educational agencies subject to this subsection, from which parents may select;

''(D) develop and implement standards and techniques for monitoring, and publicly reporting on, the quality and effectiveness of the services offered by service providers, and for withdrawing approval from providers that fail, for two consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

''(E) ensure that all approved providers meet applicable health and safety codes.

''(4) WAIVER.—A State educational agency may waive the requirements of this subsection for a local educational agency that demonstrates to the State educational agency's satisfaction that its list of approved service providers does not include any providers whose services are reasonably available geographically to children in that local educational agency.

''(5) SPECIAL RULE.—If State law prohibits a State educational agency from carrying out any of its responsibilities under this subsection, each local educational agency in the State shall carry out those prohibited responsibilities with respect to those who provide, or seek approval to provide, services to students who attend schools served by the local educational agency.

''(6) DEFINITION.—In this subsection, the term 'supplemental educational services' means tutoring and other supplemental academic enrichment services that—

''(A) are of high quality, research-based, focused on academic content, and directed exclusively at raising student proficiency in meeting the State's challenging content and student performance standards; and

''(B) are provided outside of regular school hours.''.

SEC. 118. ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

Section 1117 (20 U.S.C. 6318) is amended—

(1) in subsection (a), by adding at the end the following:

''(3) PRIORITIES.—In carrying out this section, a State educational agency shall—

''(A) first, provide support and assistance to local educational agencies subject to corrective action described in section 1116 and assist schools, in accordance with section 1116, for which a local educational agency has failed to carry out its responsibilities under section 1116;

''(B) second, provide support and assistance to other local educational agencies and schools identified as in need of improvement under section 1116; and

''(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need support and assistance in order to achieve the purpose of this part.'';

(2) in subsection (b), by striking ''the comprehensive regional technical assistance centers under part A of title XIII and'' and inserting ''comprehensive regional technical assistance centers, and''; and

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) APPROACHES.—

''(A) IN GENERAL.—In order to achieve the purpose described in subsection (a), each such system shall give priority to using funds made available to carry out this section—

''(i) to establish school support teams for assignment to and working in schools in the

State that are described in subsection (a)(3)(A); and

''(ii) to provide such support as the State educational agency determines to be necessary and available to assure the effectiveness of such teams.

''(B) COMPOSITION.—Each school support team shall be composed of persons knowledgeable about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

''(i) teachers;

''(ii) pupil services personnel;

''(iii) parents;

''(iv) distinguished teachers or principals;

''(v) representatives of institutions of higher education;

''(vi) regional educational laboratories or research centers;

''(vii) outside consultant groups; or

''(viii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

''(C) FUNCTIONS.—Each school support team assigned to a school under this section shall—

''(i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performances in that school;

''(ii) collaborate, with school staff and the local educational agency serving the school, in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 1111(b)(2)(B);

''(iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations (including the need for additional resources, professional development, or compensation) to the school, the local educational agency, and, where appropriate, the State educational agency; and

''(iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance and resources that are needed by the school or the school support team.

''(D) CONTINUATION OF ASSISTANCE.—After 1 school year, the school support team may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''part which'' and all that follows through the period and inserting ''part.''; and

(ii) in subparagraph (C)—

(I) by striking ''and may'' and inserting ''(and may''; and

(II) by striking ''exemplary performance'' and inserting ''exemplary performance)''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''EDUCATORS'' and inserting ''TEACHERS AND PRINCIPALS'';

(ii) by amending subparagraph (A) to read as follows:

''(A) The State may also recognize and provide financial awards to teachers or principals in a school described in paragraph (2) whose students consistently make significant gains in academic achievement.'';

(iii) in subparagraph (B), by striking ''educators'' and inserting ''teachers or principals''; and

(iv) by striking subparagraph (C).

SEC. 119. PARENTAL INVOLVEMENT.

Section 1118 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)(B), by inserting ''activities to improve student achievement and student and school performance'' after ''involvement'';

(2) in subsection (b)(1)—

(A) in the first sentence, by inserting ''(in a language parents can understand)'' after ''distribute''; and

(B) in the second sentence, insert ''shall be made available to the local community and'' after ''Such policy'';

(3) in subsection (e)—

(A) in paragraph (1), by striking ''participating parents in such areas as understanding the National Education Goals,'' and inserting ''parents of children served by the school or local educational agency, as appropriate, in understanding'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(C) using technology, as appropriate, to foster parental involvement;'';

(C) in paragraph (14), by striking ''and'' after the semicolon;

(D) by amending paragraph (15) to read as follows:

''(15) may establish a school district wide parent advisory council to advise the school and local educational agency on all matters related to parental involvement in programs supported under this section; and''; and

(E) by adding at the end the following:

''(16) shall provide such other reasonable support for parental involvement activities under this section as parents may request, which may include emerging technologies.'';

(4) in subsection (f), by striking ''or with'' and inserting '', parents of migratory children, or parents with''; and

(5) by striking subsection (g) and inserting the following:

''(g) INFORMATION FROM PARENTAL INFORMATION AND RESOURCE CENTERS.—In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each school or local educational agency that receives assistance under this part and is located in the State, shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

''(h) REVIEW.—The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.''.

SEC. 120. PROFESSIONAL DEVELOPMENT.

Section 1119 (20 U.S.C. 6320) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

''(A) support professional development activities that give teachers, principals, administrators, paraprofessionals, pupil services personnel, and parents the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards;'';

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (D) through (G), respectively;

(C) by inserting after subparagraph (A) the following:

''(B) advance teacher understanding of effective instructional strategies, based on research for improving student achievement, at a minimum in reading or language arts and mathematics;

''(C) be of sufficient intensity and duration (not to include 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teacher's performance in the classroom, except that this subparagraph shall not apply to an activity if such activity is 1 component of a long-term comprehensive professional development plan established by the teacher and the teacher's supervisor based upon an assessment of the needs of the teacher, the needs of students, and the needs of the local educational agency;'';

(D) in subparagraph (E) (as so redesignated), by striking ''title III of the Goals 2000: Educate America Act,'';

(E) in subparagraph (F) (as so redesignated), by striking ''and'' after the semicolon;

(F) in subparagraph (G) (as so redesignated), by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

''(H) to the extent appropriate, provide training for teachers in the use of technology and the applications of technology that are effectively used—

''(i) in the classroom to improve teaching and learning in the curriculum; and

''(ii) in academic content areas in which the teachers provide instruction; and

''(I) be regularly evaluated for their impact on increased teacher effectiveness and improved student performance and achievement, with the findings of such evaluations used to improve the quality of professional development.''; and

(2) in subsection (g), by striking ''title III of the Goals 2000: Educate America Act,'' and inserting ''other Acts''.

SEC. 120A. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) AMENDMENTS.—Section 1120 (20 U.S.C. 6321) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''that address their needs, and shall ensure that teachers and families of such children participate, on an equitable basis, in services and activities under sections 1118 and 1119'' before the period;

(B) in paragraph (3), by inserting ''and shall be provided in a timely manner'' before the period; and

(C) in paragraph (4), insert ''as determined by the local educational agency each year or every 2 years'' before the period;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking ''and where'' and inserting '', where, and by whom'';

(ii) by amending subparagraph (D) to read as follows:

''(D) how the services will be assessed and how the results of that assessment will be used to improve those services;'';

(iii) in subparagraph (E), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(F) how and when the local educational agency will make decisions about the delivery of services to eligible private school children, including a thorough consideration and analysis of the views of private school officials regarding the provision of contract services through potential third party providers, and if the local educational agency

disagrees with the views of the private school officials on such provision of services, the local educational agency shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to so provide such services.''; and

(B) by adding at the end the following:

''(4) CONSULTATION.—Each local educational agency shall provide to the State educational agency, and maintain in the local educational agency's records, a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If a private school declines in writing to have eligible children in the private school participate in services provided under this section, the local educational agency is not required to further consult with the private school officials or to document the local educational agency's consultation with the private school officials until the private school officials request in writing such consultation. The local educational agency shall inform the private school each year of the opportunity for eligible children to participate in services provided under this section.

''(5) COMPLIANCE.—A private school official shall have the right to appeal to the State educational agency the decision of a local educational agency as to whether consultation provided for in this section was meaningful and timely, and whether due consideration was given to the views of the private school official. If the private school official wishes to appeal the decision, the basis of the claim of noncompliance with this section by the local educational agencies shall be provided to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.'';

(3) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(4) by inserting after subsection (b) the following:

''(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS.—

''(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of private school children, ages 5 through 17, who are low-income by—

''(A) using the same measure of low-income used to count public school children;

''(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable; or

''(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area.

''(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 8.'';

(5) in subsection (e) (as so redesignated),

(A) in paragraph (2), by striking ''14505 and 14506'' and inserting ''8 and 9'';

(B) by redesignating paragraphs (1) and (2) (as so amended) as subparagraphs (A) and (B), respectively;

(C) by striking ''If a'' and inserting the following:

''(1) IN GENERAL.—If a''; and

(D) by adding at the end the following:

''(2) DETERMINATION.—In making the determination under paragraph (1), the Secretary shall consider 1 or more factors, including the quality, size, scope, or location of the program, or the opportunity of eligible children to participate in the program.''; and

(6) by repealing subsection (f) (as so redesignated).

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(4) shall take effect on September 30, 2003.

(c) CONFORMING AMENDMENT.—Section 1120A(a) (20 U.S.C. 6322(a)) is amended by striking ''14501 of this Act'' and inserting ''4''.

SEC. 120B. EARLY CHILDHOOD EDUCATION.

Section 1120B (20 U.S.C. 6321) is amended—

(1) by amending the section heading to read as follows:

''SEC. 1120B. COORDINATION REQUIREMENTS; EARLY CHILDHOOD EDUCATION SERVICES.'';

(2) in subsection (c), by striking ''Head Start Act Amendments of 1994'' and inserting ''Head Start Amendments of 1998''; and

(3) by adding at the end the following:

''(d) EARLY CHILDHOOD SERVICES.—A local educational agency may use funds received under this part to provide preschool services—

''(1) directly to eligible preschool children in all or part of its school district;

''(2) through any school participating in the local educational agency's program under this part; or

''(3) through a contract with a local Head Start agency, an eligible entity operating an Even Start program, a State-funded preschool program, or a comparable public early childhood development program.

''(e) EARLY CHILDHOOD EDUCATION PROGRAMS.—Early childhood education programs operated with funds provided under this part may be operated and funded jointly with Even Start programs under part B of this title, Head Start programs, or State-funded preschool programs. Early childhood education programs funded under this part shall—

''(1) focus on the developmental needs of participating children, including their social, cognitive, and language-development needs, and use scientifically based research approaches that build on competencies that lead to school success, particularly in language and literacy development and in reading;

''(2) teach children to understand and use language in order to communicate for various purposes;

''(3) enable children to develop and demonstrate an appreciation of books; and

''(4) in the case of children with limited English proficiency, enable the children to progress toward acquisition of the English language.''.

SEC. 120C. ALLOCATIONS.

Subpart 2 of part A of title I (20 U.S.C. 6331 et seq.) is amended to read as follows:

''Subpart 2—Allocations

''SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

''(a) RESERVATION OF FUNDS.—From the amount appropriated for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

''(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

''(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c).

''(b) ASSISTANCE TO THE OUTLYING AREAS.—

''(1) IN GENERAL.—From amounts made available under subsection (a)(1) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas.

''(2) COMPETITIVE GRANTS.—

''(A) IN GENERAL.—For fiscal year 2002 and each of the 6 succeeding fiscal years, the Secretary shall reserve $5,000,000 from the amounts made available under subsection (a)(1) to award grants, on a competitive basis, to local educational agencies in the Freely Associated States. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

''(B) USES.—Except as provided in subparagraph (C), grant funds awarded under this paragraph only may be used—

''(i) for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

''(ii) to provide direct educational services.

''(C) ADMINISTRATIVE COSTS.—The Secretary may provide 5 percent of the amount made available for grants under this paragraph to the Pacific Region Educational Laboratory to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

''(c) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

''(1) IN GENERAL.—The amount reserved for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

''(A) Indian children on reservations served by elementary schools and secondary schools for Indian children operated or supported by the Department of the Interior; and

''(B) out-of-State Indian children in elementary schools and secondary schools in local educational agencies under special contracts with the Department of the Interior.

''(2) PAYMENTS.—From the amount reserved for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1)(B). The amount of such payment may not exceed, for each such child, the greater of—

''(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

''(B) 48 percent of such expenditure in the United States.

''SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRATION GRANTS, AND TARGETED GRANTS.

''(a) IN GENERAL.—For each of the fiscal years 2002 through 2008—

''(1) the amount appropriated to carry out this part that is less than or equal to the amount appropriated to carry out section 1124 for fiscal year 2001, shall be allocated in accordance with section 1124;

''(2) the amount appropriated to carry out this part that is not used under paragraph (1) that equals the amount appropriated to carry out section 1124A for fiscal year 2001, shall be allocated in accordance with section 1124A; and

''(3) any amount appropriated to carry out this part for the fiscal year for which the determination is made that is not used to carry out paragraphs (1) and (2) shall be allocated in accordance with section 1125.

''(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

''(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A,

and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d).

''(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as the allocations were reduced.

''(c) HOLD-HARMLESS AMOUNTS.—

''(1) IN GENERAL.—For each fiscal year the amount made available to each local educational agency under each of sections 1124, 1124A, and 1125 shall be not less than—

''(A) 95 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 90 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 85 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

''(2) SPECIAL RULES.—If sufficient funds are appropriated, the hold-harmless amounts described in paragraph (1) shall be paid to all local educational agencies that received grants under section 1124, 1124A, or 1125 for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria provided in section 1124(b), 1124A(a)(1)(A), or 1125(a), respectively, except that a local educational agency that does not meet such minimum eligibility criteria for 5 consecutive years shall no longer be eligible to receive a hold-harmless amount under this subsection.

''(3) COUNTY CALCULATION BASIS.—For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-homeless percentages in paragraphs (1) and (2) to counties, and if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that receive funds for the fiscal year in excess of the hold-harmless amounts specified in this paragraph.

''(d) RATABLE REDUCTIONS.—

''(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.

''(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

''SEC. 1123. DEFINITIONS.

''In this subpart:

''(1) FREELY ASSOCIATED STATES.—The term 'Freely Associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(2) OUTLYING AREAS.—The term 'outlying areas' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) AMOUNT OF GRANTS.—

''(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

''(A) the number of children counted under subsection (c); and

''(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, and not more than 48 percent, of the average per-pupil expenditure in the United States.

''(2) CALCULATION OF GRANTS.—

''(A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

''(i) the Secretary and the Secretary of Commerce shall publicly disclose the reasons for their determination in detail; and

''(ii) paragraph (3) shall apply.

''(B) ALLOCATIONS TO LARGE AND SMALL LOCAL EDUCATIONAL AGENCIES.—

''(i) LARGE LOCAL EDUCATIONAL AGENCIES.—In the case of an allocation under this section to a large local educational agency, the amount of the grant under this section for the large local educational agency shall be the amount determined under paragraph (1).

''(ii) SMALL LOCAL EDUCATIONAL AGENCIES.—

''(I) IN GENERAL.—In the case of an allocation under this section to a small local educational agency the State educational agency may—

''(aa) distribute grants under this section in amounts determined by the Secretary under paragraph (1); or

''(bb) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small local educational agencies.

''(II) ALTERNATIVE METHOD.—An alternative method under subclause (I)(bb) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the minimum number of children to qualify described in subsection (b).

''(III) APPEAL.—If a small local educational agency is dissatisfied with the determination of the amount of its grant by the State educational agency under subclause (I)(bb), the small local educational agency may appeal the determination to the Secretary, who shall respond within 45 days of receiving the appeal.

''(iii) DEFINITIONS.—In this subparagraph—

''(I) the term 'large local educational agency' means a local educational agency serving a school district with a total population of 20,000 or more; and

''(II) the term 'small local educational agency' means a local educational agency serving a school district with a total population of less than 20,000.

''(3) ALLOCATIONS TO COUNTIES.—

''(A) IN GENERAL.—For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall allocate county amounts to local educational agencies, in accordance with regulations promulgated by the Secretary.

''(B) APPLICATION.—In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes the State has data that would better target funds than allocating the funds by county, the State educational agency may apply to the Secretary for authority to make the allocations under this part for a particular fiscal year directly to local educational agencies without regard to counties.

''(C) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—If the Secretary approves its application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that the allocations will be made—

''(i) using precisely the same factors for determining a grant as are used under this section; or

''(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

''(D) APPEAL.—The State educational agency shall provide the Secretary an assurance that a procedure is or will be established through which local educational agencies that are dissatisfied with determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

''(4) PUERTO RICO.—For each fiscal year, the Secretary shall determine the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

''(A) the percentage determined under the preceding sentence; and

''(B) 32 percent of the average per-pupil expenditure in the United States.

''(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is—

''(1) 10 or more; and

''(2) more than 2 percent of the total school-age population in the school district of the local educational agency.

''(c) CHILDREN TO BE COUNTED.—

''(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

''(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraphs (2) and (3);

''(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4); and

''(C) the number of children determined under paragraph (4) for the preceding year (as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children and youth (other than such institutions operated by the United States), but not counted pursuant to chapter 1 of subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

''(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families

below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains 2 or more counties in their entirety, then each county shall be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

''(3) POPULATION UPDATES.—In fiscal year 2001 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

''(4) OTHER CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act. In making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year. For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

''(5) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (2)) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

''(d) STATE MINIMUM.—Notwithstanding section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

''(1) 0.25 percent of the total amount made available to carry out this section for such fiscal year; or

''(2) the average of—

''(A) 0.25 percent of the total amount made available to carry out this section for such fiscal year; and

''(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that fiscal year.

"SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, each local educational agency in a State that is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 1124(c) who are served by the agency exceeds—

''(i) 6,500; or

''(ii) 15 percent of the total number of children aged 5 through 17 served by the agency.

''(B) MINIMUM.—Notwithstanding section 1122, no State shall receive under this section an amount that is less than the lesser of—

''(i) 0.25 percent of the total amount made available to carry out this section for such fiscal year; or

''(ii) the average of—

''(I) 0.25 percent of the sums available to carry out this section for such fiscal year; and

''(II) the greater of—

''(aa) $340,000; or

''(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that fiscal year.

''(2) DETERMINATION.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

''(A) the number of children counted under section 1124(c) for that fiscal year; and

''(B) the amount in section 1124(a)(1)(B) for all States except the Commonwealth of Puerto Rico, and the amount in section 1124(a)(3) for the Commonwealth of Puerto Rico.

''(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount that bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

''(4) LOCAL ALLOCATIONS.—

''(A) IN GENERAL.—Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 1124(a) (2) and (3).

''(B) SPECIAL RULE.—For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of the amount made available to the State under this section for any fiscal year to make grants to local educational agencies that meet the criteria in paragraph (1)(A) (i) or (ii) but that are in ineligible counties.

''(b) RATABLE REDUCTION RULE.—If the sums available under subsection (a) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) for such fiscal year, the maximum amounts that all States are eligible to receive under subsection (a) for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

''(c) STATES RECEIVING 0.25 PERCENT OR LESS.—In States that receive 0.25 percent or less of the total amount made available to carry out this section for a fiscal year, the State educational agency shall allocate such funds among the local educational agencies in the State—

''(1) in accordance with paragraphs (2) and (4) of subsection (a); or

''(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

"SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

''(A) the number of children in the local educational agency counted under section 1124(c), before application of the weighted child count described in subsection (c), is at least 10; and

''(B) if the number of children counted for grants under section 1124(c), before application of the weighted child count described in subsection (c), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

''(2) SPECIAL RULE.—For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

''(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO.—

''(1) IN GENERAL.—The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) is eligible to receive under this section for any fiscal year shall be the product of—

''(A) the weighted child count determined under subsection (c); and

''(B) the amount determined under section 1124(a)(1)(B).

''(2) PUERTO RICO.—For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) for the Commonwealth of Puerto Rico, multiplied by the amount determined in section 1124(a)(4) for the Commonwealth of Puerto Rico.

''(c) WEIGHTED CHILD COUNT.—

''(1) WEIGHTS FOR ALLOCATIONS TO COUNTIES.—

''(A) IN GENERAL.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under subparagraphs (B) and (C).

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

''(i) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

''(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

''(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

''(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

''(C) BY NUMBER OF CHILDREN.—The amount referred to in subparagraph (A) is determined by adding—

''(i) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

''(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

''(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

''(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

''(D) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

''(2) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under subparagraphs (B) and (C).

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

''(i) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.233 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children who constitute more than 15.233 percent, but not more than 22.706 percent, of such population, multiplied by 1.75;

''(iii) the number of such children who constitute more than 22.706 percent, but not more than 32.213 percent, of such population, multiplied by 2.5;

''(iv) the number of such children who constitute more than 32.213 percent, but not more than 41.452 percent, of such population, multiplied by 3.25; and

''(v) the number of such children who constitute more than 41.452 percent of such population, multiplied by 4.0.

''(C) BY NUMBER OF CHILDREN.—The amount referred to in subparagraph (A) is determined by adding—

''(i) the number of children determined under section 1124(c) who constitute not more than 710, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children between 711 and 2,384, inclusive, in such population, multiplied by 1.5;

''(iii) the number of such children between 2,385 and 9,645, inclusive, in such population, multiplied by 2.0;

''(iv) the number of such children between 9,646 and 54,600, inclusive, in such population, multiplied by 2.5; and

''(v) the number of such children in excess of 54,600 in such population, multiplied by 3.0.

''(D) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

''(d) CALCULATION OF GRANT AMOUNTS.—Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 1124(a)(2) and (3).

''(e) STATE MINIMUM.—Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted not less than 0.5 percent of the total amount made available to carry out this section for such fiscal year.

''SEC. 1125A. EDUCATION FINANCE INCENTIVE PROGRAM.

''(a) GRANTS.—From funds appropriated under subsection (e) the Secretary is authorized to make grants to States, from allotments under subsection (b), to carry out the purposes of this part.

''(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds appropriated pursuant to subsection (e) shall be allotted to each State based upon the number of children counted under section 1124(c) in such State multiplied by the product of—

''(i) such State's effort factor described in paragraph (2); multiplied by

''(ii) 1.30 minus such State's equity factor described in paragraph (3).

''(B) MINIMUM.—For each fiscal year no State shall receive under this section less than 0.5 percent of the total amount appropriated under subsection (e) for the fiscal year.

''(2) EFFORT FACTOR.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

''(B) COMMONWEALTH OF PUERTO RICO.—The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

''(3) EQUITY FACTOR.—

''(A) DETERMINATION.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

''(ii) COMPUTATION.—

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

''(II) VARIATION.—In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

''(III) NUMBER OF PUPILS.—In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children from low-income families by a factor of 1.4.

''(IV) ENROLLMENT REQUIREMENT.—In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

''(B) SPECIAL RULE.—The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Better Education for Students and Teachers Act) or a State with only 1 local educational agency shall be not greater than 0.10.

''(C) REVISIONS.—The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited English-proficiency or other meaningful educational needs, which deserve additional support. In addition, after obtaining the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

''(c) USE OF FUNDS.—All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 1124, 1124A, and 1125 to carry out activities under this part.

''(d) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such

combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

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

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

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

''(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

''(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected or delinquent children as described in section 1124(c)(1)(C), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

''(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

''(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 among the affected local educational agencies—

''(1) if 2 or more local educational agencies serve, in whole or in part, the same geographical area;

''(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

''(3) to reflect the merger, creation, or change of boundaries of 1 or more local educational agencies.

''(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

''SEC. 1127. CARRYOVER AND WAIVER.

''(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

''(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

''(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

''(2) supplemental appropriations for this subpart become available.

''(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.''.

PART B—LITERACY FOR CHILDREN AND FAMILIES

SEC. 121. READING FIRST.

Part B of title I (20 U.S.C. 6361 et seq.) is amended—

(1) by striking the part heading and inserting the following:

''PART B—LITERACY FOR CHILDREN AND FAMILIES'';

(2) by inserting after the part heading the following:

''Subpart 1—William F. Goodling Even Start Family Literacy Programs'';

(3) in sections 1201 through 1212, by striking ''this part'' each place such term appears and inserting ''this subpart''; and

(4) by adding at the end the following:

''Subpart 2—Reading First''

''SEC. 1221. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To provide assistance to States and local educational agencies in establishing reading programs for students in grades kindergarten through 3 that are grounded in scientifically based reading research, in order to ensure that every student can read at grade level or above by the end of the third grade.

''(2) To provide assistance to States and local educational agencies in preparing teachers, through professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools effectively to help their student to learn to read.

''(3) To provide assistance to States and local educational agencies in selecting or developing rigorous diagnostic reading assessments that document the effectiveness of this subpart in improving students' reading and in holding grant and subgrant recipients accountable for their results.

''(4) To provide assistance to States and local educational agencies in selecting or developing effective instructional materials, programs, and strategies to implement methods that have been proven to prevent or remediate reading failure within a State or States.

''(5) To strengthen coordination among schools, early literacy programs, and family literacy programs in order to improve reading achievement for all children.

''SEC. 1222. FORMULA GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

''(a) IN GENERAL.—In the case of each State that in accordance with section 1224 submits to the Secretary an application for a 5-year period, the Secretary, subject to the application's approval, shall make a grant to the State educational agency for the uses specified in subsections (c) and (d). The grant shall consist of the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

''(1) IN GENERAL.—From the total amount made available to carry out this subpart for any fiscal year and not reserved under section 1225, the Secretary shall allot 75 percent under this section among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(2) STATE ALLOTMENTS.—The Secretary shall allot the amount made available under paragraph (1) for a fiscal year among the States in proportion to the amount all local educational agencies in a State would receive under section 1124.

''(3) REALLOTMENT.—If any State does not apply for an allotment under this section for any fiscal year, or if the State's application is not approved, the Secretary shall reallot such amount to the remaining States in accordance with paragraph (2).

''(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) DISTRIBUTION OF SUBGRANTS.—The Secretary may make a grant to a State under this section only if the State agrees to expend at least 80 percent of the amount of the funds provided under the grant for the purpose of making, in accordance with this subsection, competitive subgrants to eligible local educational agencies.

''(2) NOTICE.—A State receiving a grant under this section shall provide notice to all eligible local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) LOCAL APPLICATION.—To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(4) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this subpart the term 'eligible local educational agency' means a local educational agency that—

''(A) has a high percentage of students in grades kindergarten through 3 reading below grade level; and

''(B) has—

''(i) jurisdiction over a geographic area that includes an area designated as an empowerment zone, or an enterprise community, under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

''(ii) jurisdiction over at least 1 school that is identified for school improvement under section 1116(c); or

''(iii) a high percentage of children who are counted under section 1124(c), in comparison to other local educational agencies in the State.

''(5) STATE REQUIREMENT.—In distributing subgrant funds to local educational agencies, a State shall provide the funds in sufficient amounts to enable local educational agencies to improve reading, as measured by scores on rigorous diagnostic reading assessments.

''(6) LOCAL PRIORITY.—In distributing subgrant funds under this subsection a local educational agency shall give priority to providing the funds to schools that—

''(A) have a high percentage of students in grades kindergarten through 3 reading below grade level;

''(B) are identified for school improvement under section 1116(c); or

''(C) have a high percentage of children counted under section 1124(c).

''(7) LOCAL USES OF FUNDS.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

''(A) Selecting or developing, and administering, a rigorous diagnostic reading assessment.

''(B) Selecting or developing, and implementing, a program or programs of reading

instruction grounded on scientifically based reading research that—

''(i) includes the major components of reading instruction; and

''(ii) provides such instruction to all children, including children who—

''(I) may have reading difficulties;

''(II) are at risk of being referred to special education based on these difficulties;

''(III) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, and have not been identified as being a child with a disability (as defined in section 602 of such Act);

''(IV) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of such Act) related to reading; or

''(V) are identified as having limited English proficiency (as defined in section 3501).

''(C) Procuring and implementing instructional materials grounded on scientifically based reading research.

''(D) Providing professional development for teachers of grades kindergarten through 3 that—

''(i) will prepare these teachers in all of the major components of reading instruction;

''(ii) shall include—

''(I) information on instructional materials, programs, strategies, and approaches grounded on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

''(II) instruction in the use of rigorous diagnostic reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

''(iii) may be provided by eligible professional development providers or otherwise.

''(E) Promoting reading and library programs that provide access to engaging reading material.

''(F) Providing training to individuals who volunteer to be reading tutors for students to enable the volunteers to support instructional practices that are based on scientific reading research and being used by the student's teacher.

''(G) Assisting parents, through the use of materials, programs, strategies and approaches, that are based on scientific reading research, to help support their children's reading development.

''(H) Collecting and summarizing data from rigorous diagnostic reading assessments—

''(i) to document the effectiveness of this subpart in individual schools and in the local educational agency as a whole; and

''(ii) to stimulate and accelerate improvement by identifying the schools that produce the significant gains in reading achievement.

''(I) Reporting data in the same manner as data is reported under section 1116(c).

''(9) LOCAL PLANNING AND ADMINISTRATION.—A local educational agency that receives a subgrant under this subsection may use not more than 5 percent of the funds provided under the subgrant for planning and administration.

''(d) OTHER STATE USES OF FUNDS.—

''(1) IN GENERAL.—A State that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

''(2) PRIORITY.—A State shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6).

''(3) PROFESSIONAL DEVELOPMENT.—A State that receives a grant under this section may expend not more than 15 percent of the amount of the funds provided under the grant to develop and implement a program of professional development for teachers of grades kindergarten through 3 that—

''(A) will prepare these teachers in all of the major components of reading instruction;

''(B) shall include—

''(i) information on instructional materials, programs, strategies, and approaches grounded on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

''(ii) instruction in the use of rigorous diagnostic reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

''(C) may be provided by eligible professional development providers or otherwise.

''(4) TECHNICAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES AND SCHOOLS.—A State that receives a grant under this section may expend not more than 5 percent of the amount of the funds provided under the grant for one or more of the following authorized State activities:

''(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

''(i) selecting and implementing a program or programs of reading instruction grounded on scientifically based reading research;

''(ii) selecting or developing rigorous diagnostic reading assessments; and

''(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in subparagraphs (A) and (B).

''(B) Providing expanded opportunities to students in grades kindergarten through 3 within eligible local educational agencies for receiving reading assistance from alternative providers that includes—

''(i) a rigorous diagnostic reading assessment; and

''(ii) instruction in the major components of reading that is based on scientific reading research.

''(3) PLANNING, ADMINISTRATION, AND REPORTING.—

''(A) IN GENERAL.—A State that receives a grant under this section shall expend not more than 5 percent of the amount of the funds provided under the grant for the activities described in this paragraph.

''(B) PLANNING AND ADMINISTRATION.—A State that receives a grant under this section may expend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds authorized under this subpart, including the following:

''(i) Administering the distribution of competitive subgrants to local educational agencies under sections 1222 and 1223.

''(ii) Collecting and summarizing data from rigorous diagnostic reading assessments—

''(I) to document the effectiveness of this subpart in individual local educational agencies and in the State as a whole; and

''(II) to stimulate and accelerate improvement by identifying the local educational agencies that produce significant gains in reading achievement.

''(C) ANNUAL REPORTING.—

''(i) IN GENERAL.—A State that receives a grant under this section shall expend funds provided under the grant to provide the Secretary annually with a report on the implementation of this subpart. The report shall include evidence that the State is fulfilling its obligations under this subpart. The report shall also include the data required under subsection (c)(7)(H) to be reported to the State by local educational agencies. The report shall include a specific identification of those local educational agencies that report significant gains in reading achievement overall and such gains based on disaggregated data, reported in the same manner as data is reported under section 1116(c).

''(ii) PRIVACY PROTECTION.—Data in the report shall be reported in a manner that protects the privacy of individuals.

''(iii) CONTRACT.—To the extent practicable, a State shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will assist the State in producing the reports required to be submitted under this subparagraph.

''SEC. 1223. COMPETITIVE GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

''(a) IN GENERAL.—In the case of a State that in accordance with section 1224 submits to the Secretary an application, the Secretary may award a grant, on a competitive basis, to the State for the use specified in subsection (c). The grant shall consist of the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

''(1) IN GENERAL.—From the total amount made available to carry out this subpart for any fiscal year referred to in subsection (a) that is neither used under section 1222 nor reserved under section 1225, the Secretary may allot such remaining amount under this section among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(2) STATE ALLOTMENTS.—

''(A) IN GENERAL.—In carrying out paragraph (1), the Secretary shall allot such funds to those States that demonstrate the most effective implementation of this subpart, as determined by the peer review panel convened under section 1224 based upon the application contents described in subparagraph (B).

''(B) APPLICATION CONTENTS.—A State that desires to receive a grant under this section shall include in its application the following:

''(i) Evidence that the State has carried out its obligations under this subpart.

''(ii) Evidence that the State has increased significantly the percentage of students reading at grade level or above by the end of the third grade.

''(iii) Evidence that the State has been successful in reducing the reading deficit in terms of the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above by the end of the third grade.

''(iv) The amount of funds being requested by the State and a description of the criteria the State intends to use in distributing subgrants to local educational agencies under this section to continue or expand activities under this subpart.

''(v) Any additional evidence that demonstrates success in the implementation of this subpart.

''(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—The Secretary may make a grant to a State under this section only if the State agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to local educational agencies.

''(2) NOTICE.—A State receiving a grant under this section shall provide notice to all eligible local educational agencies in the

State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) APPLICATION.—To apply for a subgrant under this subsection, an eligible local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(4) DISTRIBUTION.—A State shall distribute funds under this section, on a competitive basis, based on the following criteria:

''(A) Evidence that a local educational agency has carried out its obligations under this subpart.

''(B) Evidence that a local educational agency has increased significantly the percentage of students reading at grade level or above by the end of the third grade.

''(C) Evidence that a local educational agency has been successful in reducing the reading deficit in terms of the percentage of students in ethnic, racial, and low-income populations who are reading at grade level or above by the end of the third grade.

''(D) The amount of funds being requested by a local educational agency in its application under paragraph (3) and the description in such application of how such funds will be used to support the continuation or expansion of the agency's programs under this subpart.

''(E) Evidence that the local educational agency will work with other eligible local educational agencies in the State who have not received a subgrant under this subsection to assist such nonreceiving agencies in increasing the reading achievement of students.

''(F) Any additional evidence in a local educational agency's application under paragraph (3) that demonstrates success in the implementation of this subpart.

''(5) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the activities described in subparagraphs (A) through (G) of section 1222(c)(7).

''SEC. 1224. STATE APPLICATIONS.

''(a) IN GENERAL.—A State that desires to receive a grant under this subpart shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b).

''(b) CONTENTS.—An application under this section shall contain the following:

''(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

''(A) coordinated the development of the application; and

''(B) will assist in the oversight and evaluation of the State's activities under this subpart.

''(2) A description of a strategy to expand, continue, or modify activities commenced under part C of title II of this Act (as such part was in effect on the day before the date of the enactment of the Better Education for Students and Teachers Act).

''(3) An assurance that the State will submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of the following:

''(A) How the State will assist local educational agencies in identifying rigorous diagnostic reading assessments.

''(B) How the State will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, grounded on scientifically based reading research, including early intervention and reading remediation materials, programs and approaches.

''(C) How the State educational agency will ensure that professional development activities related to reading instruction and provided under this subpart are—

''(i) coordinated with other State and local level funds and used effectively to improve instructional practices for reading; and

''(ii) based on scientifically based reading research.

''(D) How the activities assisted under this subpart will address the needs of teachers and other instructional staff in schools receiving assistance under this subpart and will effectively teach students to read.

''(E) The extent to which the activities will prepare teachers in all the major components of reading instruction.

''(F) How subgrants made by the State educational agency under this subpart will meet the requirements of this subpart, including how the State educational agency will ensure that local educational agencies receiving subgrants under this subpart will use practices based on scientifically based reading research.

''(G) How the State educational agency will, to the extent practicable, make grants to subgrantees in both rural and urban areas.

''(H) How the State educational agency—

''(i) will build on, and promote coordination among, literacy programs in the State (including federally funded programs such as the Adult Education and Family Literacy Act and the Individuals with Disabilities Education Act), in order to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program; and

''(ii) will assess and evaluate, on a regular basis, local educational agency activities assisted under this subpart, with respect to whether they have been effective in achieving the purposes of this subpart.

''(c) APPROVAL OF APPLICATIONS.—

''(1) IN GENERAL.—The Secretary shall approve an application of a State under this section only if such application meets the requirement of this section.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

''(i) 3 individuals selected by the Secretary;

''(ii) 3 individuals selected by the National Institute for Literacy;

''(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

''(iv) 3 individuals selected by the National Institute of Child Health and Human Development.

''(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

''(C) RECOMMENDATIONS.—The panel shall recommend grant applications from States under this section to the Secretary for funding or for disapproval.

''(d) READING AND LITERACY PARTNERSHIPS.—

''(1) REQUIRED PARTICIPANTS.—In order for a State to receive a grant under this subpart, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership consisting of at least the following participants:

''(A) The Governor of the State.

''(B) The chief State school officer.

''(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

''(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one local educational agency that is eligible to receive a subgrant under section 1222.

''(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

''(F) State directors of appropriate Federal or State programs with a strong reading component.

''(G) A parent of a public or private school student or a parent who educates their child or children in their home, selected jointly by the Governor and the chief State school officer.

''(H) A teacher who successfully teaches reading and an instructional staff member, selected jointly by the Governor and the chief State school officer.

''(I) A family literacy service provider selected jointly by the Governor and the chief state school officer.

''(2) OPTIONAL PARTICIPANTS.—A reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

''(A) an institution of higher education operating a program of teacher preparation based on scientifically based reading research in the State;

''(B) a local educational agency;

''(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

''(D) an adult education provider;

''(E) a volunteer organization that is involved in reading programs; or

''(F) a school library or a public library that offers reading or literacy programs for children or families.

''(3) PREEXISTING PARTNERSHIP.—If, before the date of the enactment of the Better Education for Students and Teachers Act, a State established a consortium, partnership, or any other similar body that was considered a reading and literacy partnership for purposes of part C of title II of this Act (as such part was in effect on the day before the date of the enactment of the Better Education for Students and Teachers Act), that consortium, partnership, or body may be considered a reading and literacy partnership for purposes of this subpart notwithstanding that it does not satisfy the requirements of paragraph (1).

''SEC. 1225. RESERVATIONS FROM APPROPRIATIONS.

''From the amounts appropriated to carry out this subpart for a fiscal year, the Secretary—

''(1) may reserve not more than 1 percent to carry out section 1226 (relating to national activities); and

''(2) shall reserve $5,000,000 to carry out section 1227 (relating to information dissemination).

''SEC. 1226. NATIONAL ACTIVITIES.

''From funds reserved under section 1225(1), the Secretary—

''(1) through grants or contracts, shall conduct an evaluation of the program under this subpart using criteria recommended by the

peer review panel convened under section 1224; and

''(2) may provide technical assistance in achieving the purposes of this subpart to States, local educational agencies, and schools requesting such assistance.

''SEC. 1227. INFORMATION DISSEMINATION.

''(a) IN GENERAL.—From funds reserved under section 1225(2), the National Institute for Literacy, in collaboration with the Departments of Education and Health and Human Services, including the National Institute for Child Health and Human Development, shall—

''(1) disseminate information on scientifically based reading research pertaining to children, youth, and adults;

''(2) identify and disseminate information about schools, local educational agencies, and States that effectively developed and implemented reading programs that meet the requirements of this subpart, including those effective States, local educational agencies, and schools identified through the evaluation and peer review provisions of this subpart; and

''(3) support the continued identification of scientifically based reading research that can lead to improved reading outcomes for children, youth, and adults through evidenced-based assessments of the scientific research literature.

''(b) DISSEMINATION AND COORDINATION.—At a minimum, the National Institute for Literacy shall disseminate such information to recipients of Federal financial assistance under titles I and III, the Head Start Act, the Individuals With Disabilities Education Act, and the Adult Education and Family Literacy Act. In carrying out this section, the National Institute for Literacy shall, to the extent practicable, utilize existing information and dissemination networks developed and maintained through other public and private entities.

''(c) USE OF FUNDS.—The National Institute for Literacy may use not more than 5 percent of the funds made available under section 1225(2) for administrative purposes directly related to carrying out of activities authorized by this section.

''SEC. 1228. DEFINITIONS.

''For purposes of this subpart:

''(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term 'eligible professional development provider' means a provider of professional development in reading instruction to teachers that is based on scientifically based reading research.

''(2) INSTRUCTIONAL STAFF.—The term 'instructional staff'—

''(A) means individuals who have responsibility for teaching children to read; and

''(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

''(3) MAJOR COMPONENTS OF READING INSTRUCTION.—The term 'major components of reading instruction' means systematic instruction that includes—

''(A) phonemic awareness;

''(B) phonics;

''(C) vocabulary development;

''(D) reading fluency; and

''(E) reading comprehension strategies.

''(4) READING.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

''(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

''(B) The ability to decode unfamiliar words.

''(C) The ability to read fluently.

''(D) Sufficient background information and vocabulary to foster reading comprehension.

''(E) The development of appropriate active strategies to construct meaning from print.

''(F) The development and maintenance of a motivation to read.

''(5) RIGOROUS DIAGNOSTIC READING ASSESSMENT.—The term 'rigorous diagnostic reading assessment' means a diagnostic reading assessment that—

''(A) is valid, reliable, and grounded in scientifically based reading research;

''(B) measures progress in phonemic awareness and phonics, vocabulary development, reading fluency, and reading comprehension; and

''(C) identifies students who may be at risk for reading failure or who are having difficulty reading.

''(6) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research'—

''(A) means research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

''(B) shall include research that—

''(i) employs systematic, empirical methods that draw on observation or experiment;

''(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

''(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

''(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.''.

SEC. 122. EARLY READING INITIATIVE.

Part B of title I (20 U.S.C. 6361 et seq.) is amended further by adding at the end the following:

''Subpart 3—Early Reading First

''SEC. 1241. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To support local efforts to enhance the school readiness of young children, particularly those from low-income families, through scientific, research-based strategies and professional development that are designed to enhance the early language and literacy development of children aged 3 through 5.

''(2) To provide children aged 3 through 5 with cognitive learning opportunities in high-quality language and literature-rich environments, so that they can attain the fundamental knowledge necessary for optimal reading development in kindergarten and beyond.

''(3) To integrate these learning opportunities with family literacy services.

''(4) To demonstrate research-based language and literacy activities, which can be integrated with existing preschool programs, that support the age-appropriate development of letter knowledge, letter sounds and blending of sounds, words, the use of books, and the understanding and use of an increasingly complex and rich spoken vocabulary, developed in part through teacher-read stories, as well as other activities that build a strong foundation for learning to read.

''SEC. 1242. LOCAL EARLY READING FIRST GRANTS.

''(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(3), the Secretary shall award grants, on a competitive basis, for periods of not more than 4 years, to eligible applicants to enable the eligible applicants to carry out activities that are consistent with the purposes of this subpart.

''(b) DEFINITION OF ELIGIBLE APPLICANT.—In this subpart the term 'eligible applicant' means—

''(1) one or more local educational agencies that are eligible to receive a subgrant under subpart 2;

''(2) one or more public or private organizations, acting on behalf of 1 or more programs that serve preschool age children (such as a program at a Head Start center or a family literacy program), which organizations shall be located in a community served by a local educational agency described in paragraph (1); or

''(3) one or more local educational agencies described in paragraph (1) in collaboration with one or more organizations described in paragraph (2).

''(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—

''(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the children enrolled in the programs;

''(2) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-quality language, literacy and prereading activities using scientifically based research, for children ages 3 through 5;

''(3) how the proposed project will provide services and utilize materials that are based on scientifically based research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

''(4) how the proposed project will help staff in the programs to meet the diverse needs of children in the community better, including children with limited English proficiency, disabilities, or other special needs;

''(5) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and literacy skills, to make the transition from preschool to formal classroom instruction in school;

''(6) if the eligible applicant has received a subgrant under subpart 2, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 2 at the kindergarten through third-grade level;

''(7) how the proposed project will determine the success of the activities supported under this subpart in enhancing the early language and literacy development of children served by the project; and

''(8) such other information as the Secretary may require.

''(d) APPROVAL OF APPLICATIONS.—The Secretary shall select applicants for funding under this subpart on the basis of the quality of the applications, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the National Academy of Sciences. The Secretary shall select applications for approval under this subpart on the basis of a peer review process.

''(e) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

''SEC. 1243. FEDERAL ADMINISTRATION.

''The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with early childhood programs administered by the Department of Health and Human Services.

"SEC. 1244. INFORMATION DISSEMINATION.

''From the funds the National Institute for Literacy receives under section 1227, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

"SEC. 1245. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart.

"SEC. 1246. EVALUATIONS.

''From the total amount appropriated under section 1002(b)(3) for the period beginning October 1, 2002 and ending September 30, 2008, the Secretary shall reserve not more than $5,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

"SEC. 1247. ADDITIONAL RESEARCH.

''From the amount appropriated under section 1002(b)(3) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for children aged 3 through 5.''.

PART C—EDUCATION OF MIGRATORY CHILDREN

SEC. 131. PROGRAM PURPOSE.

Section 1301 (20 U.S.C. 6391) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (7), respectively;

(2) by inserting after paragraph (1) the following:

''(2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State student performance and content standards;'';

(3) in paragraph (5) (as so redesignated), by striking ''and'' after the semicolon;

(4) in paragraph (6) (as so redesignated), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(7) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State content and student performance standards that all children are expected to meet.''.

SEC. 132. STATE APPLICATION.

Section 1304 (20 U.S.C. 6394) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''a comprehensive'' and all that follows through ''1306;'' and inserting ''the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;'';

(B) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(C) by inserting after paragraph (1) the following:

''(2) a description of joint planning efforts that will be made with respect to programs assisted under this Act, local, State, and Federal programs, and bilingual education programs under subpart 1 of part A of title III;''; and

(2) in subsection (c), by amending paragraph (3) to read as follows:

''(3) in the planning and operation of programs and projects at both the State and local agency operating level there is consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out—

''(A) in a manner consistent with section 1118 unless extraordinary circumstances make implementation with such section impractical; and

''(B) in a format and language understandable to the parents;''.

SEC. 133. COMPREHENSIVE PLAN.

(a) COMPREHENSIVE PLAN.—Section 1306(a)(1) (20 U.S.C. 6396(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''the Goals 2000: Educate America Act,''; and

(B) by striking ''14306'' and inserting ''5506''; and

(2) in subparagraph (B), by striking ''14302;'' and inserting ''5502, if—

''(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

''(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

''(iii) the comprehensive State planning is not used to supplant State efforts regarding, or administrative funding for, this part;''.

(b) AUTHORIZED ACTIVITIES.—Section 1306(b)(3) (20 U.S.C. 6396(b)(3)) is amended by inserting '', and shall meet the special educational needs of migrant children before using funds under this part for schoolwide programs under section 1114'' before the period.

SEC. 134. COORDINATION.

Section 1308 (20 U.S.C. 6398) is amended—

(1) by amending subsection (b) to read as follows:

''(b) ACCESS TO INFORMATION ON MIGRANT STUDENTS.—

''(1) INFORMATION SYSTEM.—(A) The Secretary shall establish an information system for electronically exchanging, among the States, health and educational information regarding all students served under this part. Such information may include—

''(i) immunization records and other health information;

''(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under this title;

''(iii) other academic information essential to ensuring that migrant children achieve to high standards; and

''(iv) eligibility for services under the Individuals with Disabilities Education Act.

''(B) The Secretary shall publish, not later than 120 days after the date of enactment of the Better Education for Students and Teachers Act, a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migrant student information, the requirements for immediate electronic access to such information, and the educational agencies eligible to access such information.

''(C) Such system of electronic access to migrant student information shall be operational not later than 1 year after the date of enactment of the Better Education for Students and Teachers Act.

''(D) For the purpose of carrying out this subsection in any fiscal year, the Secretary shall reserve not more than $10,000,000 of the amount appropriated to carry out this part for such year.

''(2) REPORT TO CONGRESS.—(A) Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding services under this part, and shall include in this report, recommendations for the interim measures that may be taken to ensure continuity of services under this part.

''(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.''.

(2) in subsection (c), by striking ''$6,000,000'' and inserting ''$10,000,000'';

(3) in subsection (d)(1), by striking ''$1,500,000'' and inserting ''$3,000,000''; and

(4) by adding at the end the following:

''(e) DATA COLLECTION.—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.''.

PART D—INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK YOUTH

SEC. 141. INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK YOUTH.

Part D of title I (20 U.S.C. 6421 et seq.) is amended to read as follows:

"PART D—INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK STUDENTS

"Subpart 1—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or at Risk of Dropping Out

"SEC. 1401. PURPOSE; PROGRAM AUTHORIZED.

''(a) PURPOSE.—It is the purpose of this subpart—

''(1) to improve educational services for children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State are expected to meet;

''(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

''(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

''(b) PROGRAM AUTHORIZED.—In order to carry out the purpose of this subpart the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

"SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS SUBPART.

''(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies under chapter 1.

''(b) LOCAL SUBGRANTS.—Each State shall retain, for purposes of carrying out chapter 2, funds generated throughout the State under part A of title I based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

"Chapter 1—State Agency Programs

"SEC. 1411. ELIGIBILITY.

''A State agency is eligible for assistance under this chapter if such State agency is responsible for providing free public education for children—

''(1) in institutions for neglected or delinquent children and youth;

''(2) attending community day programs for neglected or delinquent children and youth; or

''(3) in adult correctional institutions.

"SEC. 1412. ALLOCATION OF FUNDS.

''(a) SUBGRANTS TO STATE AGENCIES.—

''(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this chapter, for each fiscal year, an amount equal to the product of—

''(A) the number of neglected or delinquent children and youth described in section 1411 who—

''(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

''(ii) are enrolled for at least 20 hours per week—

''(I) in education programs in institutions for neglected or delinquent children and youth; or

''(II) in community day programs for neglected or delinquent children and youth; and

''(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

''(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

''(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

''(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

''(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this chapter shall be equal to—

''(1) the number of children and youth counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico; multiplied by

''(2) the product of—

''(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

''(B) 32 percent of the average per-pupil expenditure in the United States.

''(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

''SEC. 1413. STATE REALLOCATION OF FUNDS.

''If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this chapter for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this subpart, in such amounts as the State educational agency shall determine.

''SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

''(a) STATE PLAN.—

''(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this chapter shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent children and youth and, where applicable, children and youth at risk of dropping out of school, that is integrated with other programs under this Act, or other Acts, as appropriate, consistent with section 5506.

''(2) CONTENTS.—Each such State plan shall—

''(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

''(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

''(C) contain assurances that the State educational agency will—

''(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection;

''(ii) carry out the evaluation requirements of section 1431;

''(iii) ensure that the State agencies receiving subgrants under this chapter comply with all applicable statutory and regulatory requirements; and

''(iv) provide such other information as the Secretary may reasonably require.

''(3) DURATION OF THE PLAN.—Each State plan shall—

''(A) remain in effect for the duration of the State's participation under this subpart; and

''(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this subpart.

''(b) SECRETARIAL APPROVAL; PEER REVIEW.—

''(1) IN GENERAL.—The Secretary shall approve each State plan that meets the requirements of this part.

''(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

''(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this chapter shall submit an application to the State educational agency that—

''(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

''(2) provides assurances that in making services available to youth in adult correctional institutions, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

''(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

''(4) describes how the program will meet the goals and objectives of the State plan;

''(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

''(6) describes how the agency will carry out evaluation activities and how the results of the most recent evaluation are used to plan and improve the program;

''(7) includes data showing that the agency has maintained the fiscal effort required of a local educational agency, in accordance with section 4;

''(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of the Workforce Investment Act of 1998, vocational education programs, State and local dropout prevention programs, and special education programs;

''(9) describes how appropriate professional development will be provided to teachers and other staff;

''(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

''(11) describes how the agency will, endeavor to coordinate with businesses for training and mentoring for participating children and youth;

''(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

''(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

''(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if the youth—

''(A) is identified as in need of special education services while the youth is in the facility; and

''(B) intends to return to the local school;

''(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or its recognized equivalent if the youth does not intend to return to school;

''(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

''(17) describes any additional services provided to children and youth, such as career counseling, and assistance in securing student loans and grants; and

''(18) provides assurances that the program under this chapter will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 or other comparable programs, if applicable.

''SEC. 1415. USE OF FUNDS.

''(a) USES.—

''(1) IN GENERAL.—A State agency shall use funds received under this chapter only for programs and projects that—

''(A) are consistent with the State plan under section 1414(a); and

''(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

''(2) PROGRAMS AND PROJECTS.—Such programs and projects—

''(A) may include the acquisition of equipment;

''(B) shall be designed to support educational services that—

''(i) except for institution-wide projects under section 1416, are provided to children and youth identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

''(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

''(iii) afford such children and youth an opportunity to learn to such challenging State standards;

''(C) shall be carried out in a manner consistent with section 1120A and part H of title I; and

''(D) may include the costs of evaluation activities.

''(b) SUPPLEMENT, NOT SUPPLANT.—A program under this chapter that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A without regard to the subject areas in which instruction is given during those hours.

''SEC. 1416. INSTITUTION-WIDE PROJECTS.

''A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

''(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

''(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

''(3) describes the steps the State agency has taken, or will take, to provide all youth under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the youths will complete secondary school, attain a secondary diploma or its recognized equivalent, or find employment after leaving the institution;

''(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

''(5) specifically describes how such funds will be used;

''(6) describes the measures and procedures that will be used to assess student progress;

''(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

''(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

''SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS.

''If a State agency operates a program or project under this chapter in which individual children are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this chapter for a period of not more than 3 years.

''SEC. 1418. TRANSITION SERVICES.

''(a) TRANSITION SERVICES.—Each State agency shall reserve not more than 10 percent of the amount such agency receives under this chapter for any fiscal year to support projects that facilitate the transition of children and youth from State-operated institutions to local educational agencies.

''(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

''(c) LIMITATION.—Any funds reserved under subsection (a) shall be used only to provide transitional educational services, which may include pupil services and mentoring, to neglected and delinquent children and youth in schools other than State-operated institutions.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''Chapter 2—Local Agency Programs

''SEC. 1421. PURPOSE.

''The purpose of this chapter is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities to—

''(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

''(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

''(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

''SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

''(a) LOCAL SUBGRANTS.—With funds made available under section 1412(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in community day programs).

''(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

''(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this chapter.

''SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

''Eligible local educational agencies desiring assistance under this chapter shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

''(1) a description of the program to be assisted;

''(2) a description of formal agreements between—

''(A) the local educational agency; and

''(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

''(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

''(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at-risk youth in participating schools and youth returning from correctional facilities;

''(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will coordinate existing educational programs to meet unique education needs;

''(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

''(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

''(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

''(9) a description of how the program under this chapter will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Investment Act of 1998 and vocational education programs serving at-risk youth;

''(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

''(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of youth returning from correctional facilities;

''(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

''(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

''SEC. 1424. USES OF FUNDS.

''Funds provided to local educational agencies under this chapter may be used, where appropriate, for—

''(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

''(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

''(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

''SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

''Each correctional facility having an agreement with a local educational agency under section 1423(2) to provide services to youth under this chapter shall—

''(1) where feasible, ensure educational programs in juvenile facilities are coordinated

with the student's home school, particularly with respect to special education students with an individualized education program;

''(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

''(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

''(4) provide support programs which encourage youth who have dropped out of school to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

''(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

''(6) ensure educational programs in correctional facilities are related to assisting students to meet high educational standards;

''(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

''(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

''(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds made available under title I of the Workforce Investment Act of 1998, and vocational education funds;

''(10) coordinate programs operated under this chapter with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

''(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

''SEC. 1426. ACCOUNTABILITY.

''The State educational agency may—

''(1) reduce or terminate funding for projects under this chapter if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

''(2) require juvenile facilities to demonstrate, after receiving assistance under this chapter for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

''Chapter 3—General Provisions

''SEC. 1431. PROGRAM EVALUATIONS.

''(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under chapter 1 or 2 shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every 3 years to determine the program's impact on the ability of participants to—

''(1) maintain and improve educational achievement;

''(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

''(3) make the transition to a regular program or other education program operated by a local educational agency; and

''(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution.

''(b) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

''(c) EVALUATION RESULTS.—Each State agency and local educational agency shall—

''(1) submit evaluation results to the State educational agency; and

''(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

''SEC. 1432. DEFINITIONS.

''In this subpart:

''(1) ADULT CORRECTIONAL INSTITUTION.—The term 'adult correctional institution' means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.

''(2) AT-RISK YOUTH.—The term 'at-risk youth' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

''(3) COMMUNITY DAY PROGRAM.—The term 'community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

''(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.—The term 'institution for neglected or delinquent children and youth' means—

''(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

''(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.''.

PART E—21st CENTURY LEARNING CENTERS; COMPREHENSIVE SCHOOL REFORM; SCHOOL DROPOUT PREVENTION

SEC. 151. 21st CENTURY LEARNING CENTERS; COMPREHENSIVE SCHOOL REFORM.

Title I (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part I;

(2) by redesignating sections 1601 through 1604 as sections 1901 through 1904, respectively; and

(3) by inserting after part E the following:

''PART F—21st CENTURY COMMUNITY LEARNING CENTERS

''SEC. 1601. SHORT TITLE.

''This part may be cited as the '21st Century Community Learning Centers Act'.

''SEC. 1602. PURPOSE.

''The purpose of this part is to provide opportunities to communities to establish or expand activities in community learning centers that—

''(1) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student performance standards in core academic subjects, such as reading and mathematics;

''(2) offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and

''(3) offer families of students enrolled in community learning centers opportunities for lifelong learning and literacy development.

''SEC. 1603. DEFINITIONS.

''In this part:

''(1) COMMUNITY LEARNING CENTER.—The term 'community learning center' is an entity that—

''(A)(i) assists students to meet State content and student performance standards in core academic subjects, such as reading and mathematics, by primarily providing to the students, during non-school hours or periods when school is not in session, tutorial and other academic enrichment services in addition to other activities (such as youth development activities, drug and violence prevention programs, art, music, and recreation programs, technology education programs, and character education programs) that reinforce and complement the regular academic program of the students; and

''(ii) offers families of students enrolled in such center opportunities for lifelong learning and literacy development; and

''(B) is operated by 1 or more local educational agencies, community-based organizations, units of general purpose local government, or other public or private entities.

''(2) COVERED PROGRAM.—The term 'covered program' means a program for which—

''(A) the Secretary made a grant under part I of title X (as in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(B) the grant period had not ended on that date of enactment.

''(3) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means—

''(A) a local educational agency, a community-based organization, a unit of general purpose local government, or another public or private entity; or

''(B) a consortium of entities described in subparagraph (A).

''(4) STATE.—The term 'State' means the State educational agency of a State (as defined in section 3).

''(5) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means any city, town, township, parish, village, or other general purpose political subdivision.

''SEC. 1604. PROGRAM AUTHORIZED.

''The Secretary is authorized to award grants to States to make awards to eligible organizations to plan, implement, or expand community learning centers that serve—

''(1) students who primarily attend—

''(A) schools eligible for schoolwide programs under section 1114; or

''(B) schools that serve a high percentage of students from low-income families; and

''(2) the families of students described in paragraph (1).

''SEC. 1605. ALLOTMENTS TO STATES.

''(a) RESERVATION.—From the funds appropriated under section 1002(g) for any fiscal year, the Secretary shall reserve—

''(1) such amount as may be necessary to make continuation awards for covered programs to grant recipients under part I of title X (under the terms of those grants), as in effect on the day before the effective date of the Better Education for Students and Teachers Act;

''(2) not more than 1 percent for national activities, which the Secretary may carry out directly or through grants and contracts, such as providing technical assistance to organizations carrying out programs under

this part or conducting a national evaluation; and

''(3) not more than 1 percent for payments to the outlying areas and the Bureau of Indian Affairs, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, to enable the areas and the Bureau to carry out the objectives of this part.

''(b) STATE ALLOTMENTS.—

''(1) DETERMINATION.—

''(A) BASIS.—From the funds appropriated under section 1002(g) for any fiscal year and remaining after the Secretary makes reservations under subsection (a), the Secretary shall allot to each State for the fiscal year an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year, except as provided in subparagraph (B).

''(B) EXCEPTION.—No State receiving an allotment under subparagraph (A) may receive less than ½ of 1 percent of the total amount allotted under subparagraph (A) for a fiscal year.

''(2) DEFINITION.—In this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 1606. STATE PLANS.

''Each State seeking a grant under this part shall submit to the Secretary a plan, which may be submitted as part of a State's consolidated plan under section 5502, at such time, in such manner, and containing such information as the Secretary may reasonably require. At a minimum, the plan shall—

''(1) describe how the State will use funds received under this part, including funds reserved for State-level activities;

''(2) contain an assurance that the State will make awards under this part for eligible organizations only to eligible organizations that propose to serve—

''(A) students who primarily attend—

''(i) schools eligible for schoolwide programs under section 1114; or

''(ii) schools that serve a high percentage of students from low-income families; and

''(B) the families of students described in subparagraph (A);

''(3) describe the procedures and criteria the State will use for reviewing applications and awarding funds to eligible organizations on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed center will help participating students meet local content and performance standards by increasing their academic performance and achievement;

''(4) describe how the State will ensure that awards made under this part are—

''(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this part; and

''(B) in amounts that are consistent with section 1608(b);

''(5) contain an assurance that the State—

''(A) will not make awards for programs that exceed 4 years;

''(B) will ensure an equitable distribution of awards among urban and rural areas of the State; and

''(C) will require each eligible organization seeking such an award to submit a plan describing how the center to be funded through the award will continue after funding under this part ends;

''(6) describe the State's performance measures for programs carried out under this part, including measures relating to increased academic performance and achievement, and how the State will evaluate the effectiveness of those programs;

''(7) contain an assurance that funds appropriated to carry out this part will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this part; and

''(8) contain an assurance that the State will require eligible organizations to describe in their applications under section 1609 how the transportation needs of participating students will be addressed.

''SEC. 1607. STATE-LEVEL ACTIVITIES.

''(a) IN GENERAL.—A State that receives an allotment under section 1605 for a fiscal year shall use not more than 6 percent of the funds made available through the allotment for State-level activities described in paragraphs (1) and (2) of subsection (b).

''(b) ACTIVITIES.—

''(1) PLANNING, PEER REVIEW, AND SUPERVISION.—The State may use not more than 3 percent of the funds made available through the allotment to pay for the costs of—

''(A) establishing and implementing a peer review process for applications described in section 1609 (including consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities);

''(B) supervising the awarding of funds to eligible organizations (in consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities);

''(C) planning and supervising the use of funds made available under this part, and processing the funds; and

''(D) monitoring activities.

''(2) EVALUATION, TRAINING, AND TECHNICAL ASSISTANCE.—The State may use not more than 3 percent of the funds made available through the allotment to pay for the costs of—

''(A) comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities provided under this part; and

''(B) providing training and technical assistance to eligible organizations who are applicants or recipients of awards under this part.

''SEC. 1608. AWARDS TO ELIGIBLE ORGANIZATIONS.

''(a) AWARDS.—A State that receives an allotment under section 1605 for a fiscal year shall use not less than 94 percent of the funds made available through the allotment to make awards on a competitive basis to eligible organizations.

''(b) AMOUNTS.—The State shall make the awards in amounts of not less than $50,000.

''SEC. 1609. LOCAL APPLICATION.

''(a) APPLICATION.—To be eligible to receive an award under this part, an eligible organization shall submit an application to the State at such time, in such manner, and including such information as the State may reasonably require. Each such application shall include—

''(1) an evaluation of the needs, available resources, and goals and objectives for the proposed community learning center and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families); and

''(2) a description of the proposed community learning center, including—

''(A) a description of how the eligible organization will ensure that the program proposed to be carried out at the center will reinforce and complement the instructional programs of the schools that students served by the program attend;

''(B) an identification of Federal, State, and local programs that will be combined or coordinated with the proposed program in order to make the most effective use of public resources;

''(C) an assurance that the proposed program was developed, and will be carried out, in active collaboration with the schools the students attend;

''(D) evidence that the eligible organization has experience, or demonstrates promise of success, in providing educational and related activities that will complement and enhance the students' academic performance and achievement and positive youth development;

''(E) an assurance that the program will take place in a safe and easily accessible school or other facility;

''(F) a description of how students participating in the program carried out by the center will travel safely to and from the center and home;

''(G) a description of how the eligible organization will disseminate information about the program to the community in a manner that is understandable and accessible; and

''(H) a description of a preliminary plan for how the center will continue after funding under this part ends.

''(b) PRIORITY.—In making awards under this part, the State shall give equal priority to applications—

''(1) submitted jointly by schools receiving funding under part A and community-based organizations or other eligible organizations;

''(2) submitted by such schools or consortia of such schools; and

''(3) submitted by community-based organizations or other eligible organizations serving communities in which such schools are located.

''(c) APPROVAL OF CERTAIN APPLICATIONS.—The State may approve an application under this part for a program to be located in a facility other than an elementary school or secondary school, only if the program—

''(1) will be accessible to the students proposed in the application to be served; and

''(2) will be as effective as the program would be if the program were located in such a school.

''PART G—COMPREHENSIVE SCHOOL REFORM

''SEC. 1701. PURPOSE.

''The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and scientifically based research programs that emphasize basic academics and parental involvement so that all children can meet challenging State content and student performance standards.

''SEC. 1702. PROGRAM AUTHORIZATION.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1701.

''(2) ALLOTMENTS.—

''(A) RESERVATIONS.—Of the amount appropriated under section 1002(h) for a fiscal year, the Secretary may reserve—

''(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

''(ii) not more than 1 percent to conduct national evaluation activities described in section 1707.

''(B) IN GENERAL.—Of the amount appropriated under section 1002(h) that remains

after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for that year.

''(C) REALLOTMENT.—If a State does not apply for funds under this section, the Secretary shall reallot such funds to other States that do not apply in proportion to the amount allotted to such other States under subparagraph (B).

''SEC. 1703. STATE APPLICATIONS.

''(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each such application shall describe—

''(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this section;

''(2) how the State educational agency will ensure that only comprehensive school reforms that are based on promising and effective practices and scientifically based research programs receive funds under this part;

''(3) how the State educational agency will disseminate information on comprehensive school reforms that are based on promising and effective practices and scientifically based research programs;

''(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

''(5) how the State educational agency will make available technical assistance to a local educational agency or consortia of local educational agencies in evaluating, developing, and implementing comprehensive school reform.

''SEC. 1704. STATE USE OF FUNDS.

''(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies or consortia of local educational agencies in the State that receive funds under part A.

''(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency or consortium shall be—

''(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency or consortium;

''(2) in an amount not less than $50,000 for each participating school; and

''(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made if the school is making substantial progress in the implementation of reforms.

''(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies or consortia that—

''(1) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); and

''(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

''(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary students.

''(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

''(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

''(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

''SEC. 1705. LOCAL APPLICATIONS.

''(a) IN GENERAL.—Each local educational agency or consortium of local educational agencies desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

''(b) CONTENTS.—Each such application shall—

''(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program, including the projected costs of such a program;

''(2) describe the promising and effective practices and scientifically based research programs that such schools will implement;

''(3) describe how the local educational agency or consortium will provide technical assistance and support for the effective implementation of the promising and effective practices and scientifically based research school reforms selected by such schools; and

''(4) describe how the local educational agency or consortium will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

''SEC. 1706. LOCAL USE OF FUNDS.

''(a) USES OF FUNDS.—A local educational agency or consortium that receives a subgrant under this section shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

''(1) employing innovative strategies for student learning, teaching, and school management that are based on promising and effective practices and scientifically based research programs and have been replicated successfully in schools with diverse characteristics;

''(2) integrating a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

''(3) providing high quality and continuous teacher and staff professional development;

''(4) the inclusion of measurable goals for student performance;

''(5) support for teachers, principals, administrators, and other school personnel staff;

''(6) meaningful community and parental involvement initiatives that will strengthen school improvement activities;

''(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

''(8) evaluating school reform implementation and student performance; and

''(9) identification of other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the school reform effort.

''(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Secretary, but may develop the school's own comprehensive school reform programs for schoolwide change as described in subsection (a).

''SEC. 1707. NATIONAL EVALUATION AND REPORTS.

''(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

''(b) EVALUATION.—The national evaluation shall—

''(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

''(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

''(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program, which began in 1998, to the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

''PART H—SCHOOL DROPOUT PREVENTION

''SEC. 1801. SHORT TITLE.

''This part may be cited as the 'Dropout Prevention Act'.

''SEC. 1802. PURPOSE.

''The purpose of this part is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants, to schools through State educational agencies, that—

''(1) challenge all children to attain their highest academic potential; and

''(2) ensure that all students have substantial and ongoing opportunities to do so through schoolwide programs proven effective in school dropout prevention.

''Subpart 1—Coordinated National Strategy

''SEC. 1811. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to collect systematic data on the participation in the programs described in paragraph (2)(C) of individuals disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

''(2) to establish and to consult with an interagency working group that shall—

''(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reentry, and assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention;

''(B) describe the ways in which State and local agencies can implement effective school dropout prevention programs using funds from a variety of Federal programs, including the programs under this title; and

''(C) address all Federal programs with school dropout prevention or school reentry elements or objectives, including programs under this title, programs under subtitle C of title I of the Workforce Investment Act of 1998, and other programs; and

''(3) carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized.

''(b) RECOGNITION PROGRAM.—

''(1) NATIONAL GUIDELINES.—The Secretary shall develop uniform national guidelines for the recognition program that shall be used to recognize schools from nominations submitted by State educational agencies.

''(2) ELIGIBLE SCHOOLS.—The Secretary may recognize under the recognition program any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

''(3) SUPPORT.—The Secretary may make monetary awards to schools recognized under the recognition program in amounts determined by the Secretary. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

''(c) CAPACITY BUILDING.—

''(1) IN GENERAL.—The Secretary, through a contract with a non-Federal entity, may conduct a capacity building and design initiative in order to increase the types of proven strategies for dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

''(2) NUMBER AND DURATION.—

''(A) NUMBER.—The Secretary may award not more than 5 contracts under this subsection.

''(B) DURATION.—The Secretary may award a contract under this subsection for a period of not more than 5 years.

''(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

''(1) IN GENERAL.—The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this chapter.

''(2) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity that, prior to the date of enactment of the Dropout Prevention Act—

''(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

''(B) developed and published a specific educational program or design for use by the schools.

"Subpart 2—National School Dropout Prevention Initiative

"SEC. 1821. PROGRAM AUTHORIZED.

''(a) GRANTS.—

''(1) DISCRETIONARY GRANTS.—If the sum appropriated under section 1002(i) for a fiscal year is less than $250,000,000, then the Secretary shall use such sum to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award grants under subsection (b).

''(2) FORMULA.—If the sum appropriated under section 1002(i) for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such sum to make an allotment to each State in an amount that bears the same relation to the sum as the amount the State received under part A for the preceding fiscal year bears to the amount received by all States under such part for the preceding fiscal year.

''(3) DEFINITION OF STATE.—In this subpart, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(b) GRANTS.—From amounts made available to a State under subsection (a), the State educational agency may award grants to public middle schools or secondary schools that serve students in grades 6 through 12, that have school dropout rates that are the highest of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

''(1) professional development;

''(2) obtaining curricular materials;

''(3) release time for professional staff;

''(4) planning and research;

''(5) remedial education;

''(6) reduction in pupil-to-teacher ratios;

''(7) efforts to meet State student achievement standards;

''(8) counseling and mentoring for at-risk students; and

''(9) comprehensive school reform models.

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (d) and except as provided in paragraph (2), a grant under this subpart shall be awarded—

''(A) in the first year that a school receives a grant payment under this subpart, based on factors such as—

''(i) school size;

''(ii) costs of the model or set of prevention and reentry strategies being implemented; and

''(iii) local cost factors such as poverty rates;

''(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this subpart in the first such year;

''(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this subpart in the first such year; and

''(D) in each succeeding year in an amount that is not less than 30 percent of the amount the school received under this subpart in the first such year.

''(2) INCREASES.—The Secretary shall increase the amount awarded to a school under this subpart by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

''(d) DURATION.—A grant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 1827(a), that significant progress has been made in lowering the school dropout rate for students participating in the program assisted under this subpart compared to students at similar schools who are not participating in the program.

"SEC. 1822. STRATEGIES AND CAPACITY BUILDING.

''Each school receiving a grant under this subpart shall implement scientifically based research, sustainable, and widely replicated strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students. The strategies may include—

''(1) specific strategies for targeted purposes, such as—

''(A) effective early intervention programs designed to identify at-risk students;

''(B) effective programs encompassing traditionally underserved students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school; and

''(C) effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

''(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, developing clear linkages to career skills and employment, and addressing specific gatekeeper hurdles that often limit student retention and academic success.

"SEC. 1823. SELECTION OF SCHOOLS.

''(a) SCHOOL APPLICATION.—

''(1) IN GENERAL.—Each school desiring a grant under this subpart shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) contain a certification from the local educational agency serving the school that—

''(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

''(ii) the local educational agency is committed to providing ongoing operational support, for the school's comprehensive reform plan to address the problem of school dropouts, for a period of 5 years; and

''(iii) the local educational agency will support the plan, including—

''(I) release time for teacher training;

''(II) efforts to coordinate activities for feeder schools; and

''(III) encouraging other schools served by the local educational agency to participate in the plan;

''(B) demonstrate that the faculty and administration of the school have agreed to apply for assistance under this subpart, and provide evidence of the school's willingness and ability to use the funds under this subpart, including providing an assurance of the support of 80 percent or more of the professional staff at the school;

''(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

''(D) describe a budget and timeline for implementing the strategies;

''(E) contain evidence of coordination with existing resources;

''(F) provide an assurance that funds provided under this subpart will supplement and not supplant other Federal, State, and local funds available for dropout prevention programs;

''(G) describe how the activities to be assisted conform with scientifically based research knowledge about school dropout prevention and reentry; and

''(H) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under section 1114.

''(b) STATE AGENCY REVIEW AND AWARD.—The State educational agency shall review applications and award grants to schools under subsection (a) according to a review by a panel of experts on school dropout prevention.

''(c) ELIGIBILITY.—A school is eligible to receive a grant under this subpart if the school is—

''(1) a public school (including a public alternative school)—

''(A) that is eligible to receive assistance under part A, including a comprehensive secondary school, a vocational or technical secondary school, or a charter school; and

''(B)(i) that serves students 50 percent or more of whom are low-income individuals; or

''(ii) with respect to which the feeder schools that provide the majority of the incoming students to the school serve students 50 percent or more of whom are low-income individuals; or

''(2) participating in a schoolwide program under section 1114 during the grant period.

''(d) COMMUNITY-BASED ORGANIZATIONS.—A school that receives a grant under this subpart may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

''(1) the school approves the use;

''(2) the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts; and

''(3) the community-based organization has demonstrated the organization's ability to provide effective services as described in section 122 of the Workforce Investment Act of 1998.

''(e) COORDINATION.—Each school that receives a grant under this subpart shall coordinate the activities assisted under this subpart with other Federal programs, such as programs assisted under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

''SEC. 1824. DISSEMINATION ACTIVITIES.

''Each school that receives a grant under this part shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

''SEC. 1825. PROGRESS INCENTIVES.

''Notwithstanding any other provision of law, each local educational agency that receives funds under this title shall use such funds to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this subpart for 2 fiscal years.

''SEC. 1826. SCHOOL DROPOUT RATE CALCULATION.

''For purposes of calculating a school dropout rate under this subpart, a school shall use—

''(1) the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data, if available; or

''(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

''SEC. 1827. REPORTING AND ACCOUNTABILITY.

''(a) REPORTING.—To receive funds under this subpart for a fiscal year after the first fiscal year that a school receives funds under this subpart, the school shall provide, on an annual basis, to the Secretary and the State educational agency a report regarding the status of the implementation of activities funded under this subpart, the outcome data for students at schools assisted under this subpart disaggregated in the same manner as information under section 1811(a) (such as dropout rates), and a certification of progress from the eligible entity whose strategies the school is implementing.

''(b) ACCOUNTABILITY.—On the basis of the reports submitted under subsection (a), the Secretary shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared to a control group.

''SEC. 1828. STATE RESPONSIBILITIES.

''(a) UNIFORM DATA COLLECTION.—Within 1 year after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this subpart shall report to the Secretary and statewide, all school district and school data regarding school dropout rates in the State disaggregated in the same manner as information under section 1811(a), according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

''(b) ATTENDANCE-NEUTRAL FUNDING POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this subpart shall develop and implement education funding formula policies for public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

''(1) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

''(2) specific incentives for retaining enrolled students throughout each year.

''(c) SUSPENSION AND EXPULSION POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this subpart shall develop uniform, long-term suspension and expulsion policies (that in the case of a child with a disability are consistent with the suspension and expulsion policies under the Individuals with Disabilities Education Act) for serious infractions resulting in more than 10 days of exclusion from school per academic year so that similar violations result in similar penalties.

''(d) REGULATIONS.—The Secretary shall promulgate regulations implementing subsections (a) through (c).

''Subpart 3—Definitions; Authorization of Appropriations

''SEC. 1831. DEFINITIONS.

''In this part:

''(1) LOW-INCOME.—The term 'low-income', used with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1113(a)(5).

''(2) SCHOOL DROPOUT.—The term 'school dropout' means a youth who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.''.

PART F—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

SEC. 161. STATEMENT OF POLICY.

Section 721(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431(3)) is amended by striking ''should not be'' and inserting ''is not''.

SEC. 162. GRANTS FOR STATE AND LOCAL ACTIVITIES.

Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in subsection (c)—

(A) in paragraph (2)(A)—

(i) by inserting ''and'' after ''Samoa,''; and

(ii) by striking '', and Palau'' and all that follows through ''Palau)''; and

(B) in paragraph (3)—

(i) by inserting ''or'' after ''Samoa,''; and

(ii) by striking '', or Palau'';

(2) in subsection (e), by adding at the end the following:

''(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—In providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school, or in a separate program within a school, based on such child or youth's status as homeless, except as provided in section 723(a)(2)(B)(ii).'';

(3) by amending subsection (f) to read as follows:

''(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

''(1) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

''(2) develop and carry out the State plan described in subsection (g);

''(3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, such information as the Secretary deems necessary to assess the educational needs of homeless children and youth within the State;

''(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth;

''(5) in order to improve the provision of comprehensive education and related services to homeless children and youth and their families, coordinate and collaborate with—

''(A) educators, including child development and preschool program personnel;

''(B) providers of services to homeless and runaway children and youth and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth);

''(C) local educational agency liaisons for homeless children and youth; and

''(D) community organizations and groups representing homeless children and youth and their families; and

''(6) provide technical assistance to local educational agencies in coordination with local liaisons established under this subtitle, to ensure that local educational agencies comply with the requirements of section 722(e)(3).''; and

(4) in subsection (g)—

(A) in paragraph (1)—

(i) in subparagraph (E)—

(I) by striking ''the report'' and inserting ''the information''; and

(II) by striking ''(f)(4)'' and inserting ''(f)(3)''; and

(ii) by amending subparagraph (H) to read as follows:

''(H) contain assurances that—

''(i) the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not segregated on the basis of their status as homeless or stigmatized; and

''(ii) local educational agencies serving school districts in which homeless children and youth reside or attend school will—

''(I) post public notice of the educational rights of such children and youth where such children and youth receive services under this Act (such as family shelters and soup kitchens); and

''(II) designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a liaison for homeless children and youth.'';

(B) by amending paragraph (3) to read as follows:

''(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

''(A) IN GENERAL.—Each local educational agency serving a homeless child or youth assisted under this subtitle shall, according to the child's or youth's best interest—

''(i) continue the child's or youth's education in the school of origin—

''(I) for the duration of their homelessness;

''(II) if the child becomes permanently housed, for the remainder of the academic year; or

''(III) in any case in which a family becomes homeless between academic years, for the following academic year; or

''(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

''(B) BEST INTEREST.—In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

''(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian, or in the case of an unaccompanied youth, doing so is contrary to the youth's wish; and

''(ii) provide a written explanation to the homeless child's or youth's parent or guardian when the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian.

''(C) ENROLLMENT.—

''(i) DOCUMENTATION.—The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

''(ii) SPECIAL RULE.—The enrolling school immediately shall contact the school last attended by the child or youth to obtain relevant academic and other records. If the child or youth needs to obtain immunizations, the enrolling school shall promptly refer the child or youth to the appropriate authorities for such immunizations.

''(iii) DISPUTES.—If a dispute arises over school selection or enrollment in a school, the child or youth shall be admitted immediately to the school in which the parent or guardian (or in the case of an unaccompanied youth, the youth) seeks enrollment pending resolution of the dispute.

''(D) DEFINITION OF SCHOOL OF ORIGIN.—For purposes of this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

''(E) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.'';

(C) by amending paragraph (6) to read as follows:

''(6) COORDINATION.—

''(A) IN GENERAL.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate the provision of services under this subtitle with local services agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.).

''(B) HOUSING ASSISTANCE.—If applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youth who become homeless.

''(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

''(i) ensure that homeless children and youth have access to available education and related support services; and

''(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in shelters and other challenges associated with homeless children and youth.'';

(D) by amending paragraph (7) to read as follows:

''(7) LIAISON.—

''(A) IN GENERAL.—Each local liaison for homeless children and youth designated pursuant to paragraph (1)(H)(ii)(II) shall ensure that—

''(i) homeless children and youth enroll, and have a full and equal opportunity to succeed, in the schools of the local educational agency;

''(ii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

''(iii) the parents or guardians of homeless children and youth are informed of the education and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children; and

''(iv) public notice of the educational rights of homeless children and youth is posted where such children and youth receive services under this Act (such as family shelters and soup kitchens).

''(B) INFORMATION.—State coordinators in States receiving assistance under this subtitle and local educational agencies receiving assistance under this subtitle shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons for homeless children and youth.

''(C) LOCAL AND STATE COORDINATION.—Liaisons for homeless children and youth shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

''(D) DISPUTE RESOLUTION.—Unless another individual is designated by State law, the local liaison for homeless children and youth shall provide resource information and assist in resolving a dispute under this subtitle if such a dispute arises.''; and

(E) by striking paragraph (9).

SEC. 163. LOCAL EDUCATIONAL AGENCY GRANTS.

Section 723 of such Act (42 U.S.C. 11433) is amended—

(1) in subsection (a), by amending paragraph (2) to read as follows:

''(2) SERVICES.—

''(A) IN GENERAL.—Services provided under paragraph (1)—

''(i) may be provided through programs on school grounds or at other facilities;

''(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals; and

''(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not replace that program.

''(B) SERVICES ON SCHOOL GROUNDS.—If services under paragraph (1) are provided on school grounds, schools—

''(i) may use funds under this subtitle to provide the same services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, subject to clause (ii); and

''(ii) shall not provide services in settings within a school that segregates homeless children and youth from other children and youth, except as is necessary for short periods of time—

''(I) for health and safety emergencies; or

''(II) to provide temporary, special, supplementary services to meet the unique needs of homeless children and youth.'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following:

''(1) an assessment of the educational and related needs of homeless children and youth in the school district (which may be undertaken as a part of needs assessments for other disadvantaged groups);''; and

(C) in paragraph (4) (as so redesignated), by striking ''(9)'' and inserting ''(8)''; and

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—The State educational agency, in accordance with the requirements of this subtitle and from amounts made available to the State educational agency under section 726, shall award grants, on a competitive basis, to local educational agencies that submit applications under subsection (b). Such grants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) QUALITY.—In determining the quality of applications under paragraph (1), the State educational agency shall consider—

''(A) the local educational agency's needs assessment under subsection (b)(1) and the likelihood that the program to be assisted will meet the needs;

''(B) the types, intensity, and coordination of services to be assisted under the program;

''(C) the involvement of parents or guardians;

''(D) the extent to which homeless children and youth will be integrated within the regular education program;

''(E) the quality of the local educational agency's evaluation plan for the program;

''(F) the extent to which services provided under this subtitle will be coordinated with other available services;

''(G) the extent to which the local educational agency provides case management or related services to homeless children and youth who are unaccompanied by a parent or guardian; and

''(H) such other measures as the State educational agency determines indicative of a high-quality program.''.

SEC. 164. SECRETARIAL RESPONSIBILITIES.

Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), by striking ''the State educational'' and inserting ''State educational'';

(2) by striking subsection (f);

(3) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(4) by inserting after subsection (b) the following:

''(c) GUIDELINES.—The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after the date of enactment of the Better Education for Students and Teachers Act, school enrollment guidelines for States with respect to homeless children and youth. The guidelines shall describe—

''(1) successful ways in which a State may assist local educational agencies to enroll immediately homeless children and youth in school; and

''(2) how a State can review the State's requirements regarding immunization and medical or school records and make revisions to the requirements as are appropriate and necessary in order to enroll homeless children and youth in school more quickly.''; and

(5) by adding at the end the following:

''(g) INFORMATION.—

''(1) IN GENERAL.—From funds appropriated under section 726, the Secretary, directly or through grants, contracts, or cooperative agreements, shall periodically collect and disseminate data and information regarding—

''(A) the number and location of homeless children and youth;

''(B) the education and related services homeless children and youth receive;

''(C) the extent to which the needs of homeless children and youth are met; and

''(D) such other data and information as the Secretary determines necessary and relevant to carry out this subtitle.

''(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

''(h) REPORT.—Not later than 4 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall prepare and submit to the President and the appropriate committees of the House of Representatives and the Senate a report on the status of the education of homeless children and youth, which shall include information regarding—

''(1) the education of homeless children and youth; and

''(2) the actions of the Department of Education and the effectiveness of the programs supported under this subtitle.''.

SEC. 165. DEFINITIONS.

Section 725 of such Act (42 U.S.C. 11434a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following:

''(1) the terms 'local educational agency' and 'State educational agency' have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965;''.

SEC. 166. AUTHORIZATION OF APPROPRIATIONS.

Section 726 of such Act (42 U.S.C. 11435) is amended to read as follows:

''SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subtitle, there are authorized to be appropriated $70,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.''.

SEC. 167. CONFORMING AMENDMENTS.

(a) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432) is amended—

(1) in subsection (c)(1), by striking ''section 724(c)'' and inserting ''section 724(d)''; and

(2) in subsection (g)(2), by striking ''paragraphs (3) through (9)'' and inserting ''paragraphs (3) through (8)''.

(b) LOCAL EDUCATIONAL AGENCY GRANTS.—Section 723(b)(3) of such Act (42 U.S.C. 11433(b)(3)) is amended by striking ''paragraphs (3) through (9) of section 722(g)'' and inserting ''paragraphs (3) through (8) of section 722(g)''.

(c) SECRETARIAL RESPONSIBILITIES.—Section 724(f) of such Act (as amended by section 164(3)) is amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

TITLE II—TEACHERS

SEC. 201. TEACHER QUALITY.

Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

''TITLE II—TEACHERS

''PART A—TEACHER QUALITY

''SEC. 2101. PURPOSE.

''The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to—

''(1) increase student academic achievement and student performance through such strategies as improving teacher quality and increasing the number of highly qualified teachers in the classroom;

''(2) hold local educational agencies and schools accountable so that all teachers teaching core academic subjects in public elementary schools and secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified; and

''(3) hold local educational agencies and schools accountable for improvements in student academic achievement and student performance.

''SEC. 2102. DEFINITIONS.

''In this part:

''(1) ALL STUDENTS.—The term 'all students' means students from a broad range of backgrounds and circumstances, including economically disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, and academically talented students.

''(2) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 5120.

''(3) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' means English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

''(4) HIGHLY QUALIFIED.—The term 'highly qualified' means—

''(A) with respect to an elementary school teacher, a teacher—

''(i)(I) with an academic major in the arts and sciences; or

''(II) who can demonstrate competence through a high level of performance in core academic subjects; and

''(ii) who is certified or licensed by the State involved, except for a teacher in a charter school in a State that has a charter school law that exempts such a teacher from State certification and licensing requirements;

''(B) with respect to a secondary school teacher hired before the date of enactment of the Better Education for Students and Teachers Act, a teacher—

''(i)(I) with an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the teacher teaches or a related field;

''(II) who can demonstrate a high level of competence through rigorous academic subject tests and achievement of a high level of competence as described in subclause (III); or

''(III) who can demonstrate a high level of competence through a high level of performance in the academic subjects that the teacher teaches, based on a high and objective uniform standard that is—

''(aa) set by the State for both grade appropriate academic subject knowledge and teaching skills;

''(bb) the same for all teachers in the same academic subject and same grade level throughout the State; and

''(cc) a written standard that is developed in consultation with teachers, parents, principals, and school administrators and made available to the public upon request; and

''(ii) who is certified or licensed by the State, except for a teacher in a charter school in a State that has a charter school law that exempts such a teacher from State certification and licensing requirements; and

''(C) with respect to a secondary school teacher hired after the date of enactment of the Better Education for Students and Teachers Act, a teacher that meets the requirements of subclause (I) or (II) of subparagraph (B)(i).

''(5) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term 'high need local educational agency' has the meaning given the term in section 201(b) of the Higher Education Act of 1965.

''(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965.

''(7) OUT-OF-FIELD TEACHER.—The term 'out-of-field teacher' means a secondary school teacher who is teaching an academic subject for which the teacher is not highly qualified.

''(8) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

''(9) PROFESSIONAL DEVELOPMENT.—The term 'professional development' means activities that—

''(A) are an integral part of broad schoolwide and districtwide educational improvement plans;

''(B) enhance the ability of teachers and other staff to—

''(i) help all students meet challenging State and local content and student performance standards;

''(ii) improve understanding and use of student assessments by the teachers and staff;

''(iii) improve classroom management skills; and

''(iv) as appropriate, integrate technology into the curriculum;

''(C) are sustained, intensive, and school-embedded;

''(D) are aligned with—

''(i) State content standards, student performance standards, and assessments; and

''(ii) the curricula and programs tied to the standards described in clause (i);

''(E) are of high quality and sufficient duration to have a positive and lasting impact on classroom instruction, and are not one-time workshops; and

''(F) are based on the best available research on teaching and learning.

''(10) TEACHER MENTORING.—The term 'teacher mentoring' means activities that—

''(A) consist of structured guidance and regular and ongoing support for beginning teachers, that—

''(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

''(ii) as part of a multiyear, developmental induction process—

''(I) involve the assistance of a mentor teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

''(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

''(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

''SEC. 2103. AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS TO STATES, LOCAL EDUCATIONAL AGENCIES, AND ELIGIBLE PARTNERSHIPS.—There are authorized to be appropriated to carry out this part (other than subpart 5) $3,000,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) NATIONAL PROGRAMS.—There are authorized to be appropriated to carry out subpart 5 (other than subsection (f)) $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''Subpart 1—Grants to States

''SEC. 2111. ALLOTMENTS TO STATES.

''(a) IN GENERAL.—The Secretary shall make grants to States with applications approved under section 2112 to pay for the Federal share of carrying out the activities specified in section 2113. Each grant shall consist of the allotment determined for a State under subsection (b).

''(b) DETERMINATION OF ALLOTMENTS.—

''(1) RESERVATION OF FUNDS.—

''(A) IN GENERAL.—From the total amount appropriated under section 2103(a) for a fiscal year, the Secretary shall reserve—

''(i) ½ of 1 percent for payments to the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary, for activities authorized under this part relating to teacher quality, including professional development and teacher hiring; and

''(ii) ½ of 1 percent for payments to the Secretary of the Interior for activities described in clause (i) in schools operated or funded by the Bureau of Indian Affairs.

''(B) LIMITATION.—In reserving an amount for the purposes described in clauses (i) and (ii) of subparagraph (A) for a fiscal year, the Secretary shall not reserve more than the total amount the outlying areas and the schools operated or funded by the Bureau of Indian Affairs received for fiscal year 2001 under—

''(i) section 2202(b) of this Act (as in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

''(2) STATE ALLOTMENTS.—

''(A) HOLD HARMLESS.—

''(i) IN GENERAL.—Subject to subparagraph (B), from the total amount appropriated under section 2103(a) for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under the authorities described in paragraph (1)(B).

''(ii) RATABLE REDUCTION.—If the total amount appropriated under section 2103(a) for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for the fiscal year, the Secretary shall ratably reduce such amounts for the fiscal year.

''(B) ALLOTMENT OF ADDITIONAL FUNDS.—

''(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount appropriated under section 2103(a) and not reserved under paragraph (1) exceeds the total amount made available to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for fiscal year 2001 under the authorities described in paragraph (1)(B), the Secretary shall allot to each of those States the sum of—

''(I) an amount that bears the same relationship to 50 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

''(II) an amount that bears the same relationship to 50 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

''(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under clause (i) for a fiscal year.

''(3) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

''SEC. 2112. STATE APPLICATIONS.

''(a) IN GENERAL.—For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each application submitted under this section shall include the following:

''(1) A description of how the activities to be carried out by the State educational agency under this subpart will be based on a review of relevant research and an explanation of why the activities are expected to improve student performance and outcomes.

''(2) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with State content standards, student performance standards, and assessments.

''(3) A description of how the State educational agency will ensure that a local educational agency receiving a subgrant to carry out subpart 2 will comply with the requirements of such subpart.

''(4) A description of how the State educational agency will use funds made available under this part to improve the quality of the State's teaching force and the educational opportunities for students.

''(5) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs, including those authorized under—

''(A) title I, part C of this title, part A of title III, and title IV; and

''(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

''(6) A description of how the activities to be carried out by the State educational agency under this subpart will be developed collaboratively based on the input of teachers, paraprofessionals, administrators, other school personnel, and parents.

''(7) A description of how the State educational agency will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this subpart and subpart 2.

''(8) A description of the State educational agency's annual measurable performance objectives under section 2141.

''(9) A plan to ensure that all local educational agencies in the State are meeting the performance objectives established by the State under section 2142(a)(1) so that all teachers in the State who are teaching core academic subjects in public elementary schools and secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified not later than the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act).

''(10) An assurance that the State educational agency will consistently monitor the progress of each local educational agency and school in the State in achieving the purpose of this part and meeting the performance objectives described in section 2142.

''(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, a description of the basis for the exemption.

''(c) APPROVAL.—The Secretary shall approve a State application submitted to the Secretary under this section unless the Secretary makes a written determination, within 90 days after receiving the application, that the application does not meet the requirements of this Act.

''SEC. 2113. STATE USE OF FUNDS.

''(a) IN GENERAL.—A State that receives a grant under section 2111 shall—

''(1) reserve 2 percent of the funds made available through the grant for State activities described in subsection (b);

''(2) reserve 95 percent of the funds to make subgrants to local educational agencies as described in subpart 2; and

''(3) reserve 3 percent of the funds to make subgrants to local partnerships as described in subpart 3.

''(b) STATE ACTIVITIES.—The State educational agency for a State that receives a grant under section 2111 shall use the funds reserved under subsection (a)(1) to carry out 1 or more of the following activities:

''(1) Reforming teacher certification (including recertification) or licensing requirements to ensure that—

''(A) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

''(B) the requirements are aligned with challenging State content standards; and

''(C) teachers have the subject matter knowledge and teaching skills necessary to help students meet challenging State student performance standards.

''(2) Carrying out programs that provide support during the initial teaching experience, such as programs that provide teacher mentoring, team teaching, reduced schedules, and intensive professional development.

''(3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers for highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers.

''(4) Providing assistance to teachers to enable teachers to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year described in section 2112(b)(9).

''(5) Supporting activities to encourage and support teachers seeking national board certification from the National Board for Professional Teaching Standards or other recognized entities.

''(6) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals.

''(7) Funding projects to promote reciprocity of teacher certification or licensure between or among States.

''(8) Testing new teachers for subject matter knowledge, and testing the teachers for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

''(9) Supporting activities that ensure that teachers are able to use State content standards, student performance standards, and assessments to improve instructional practices and improve student achievement and student performance.

''(10) Establishing teacher compensation systems based on merit and proven performance.

''(11) Reforming tenure systems.

''(c) COORDINATION.—A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 202.

''Subpart 2—Subgrants to Local Educational Agencies

''SEC. 2121. ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.

''(a) IN GENERAL.—A State that receives a grant under section 2111 shall use the funds reserved under section 2113(a)(2) to make subgrants to eligible local educational agencies to carry out the activities specified in section 2123. Each subgrant shall consist of the allocation determined for a local educational agency under subsection (b).

''(b) DETERMINATION OF ALLOCATIONS.—From the total amount made available through the grant, the State shall allocate to each of the eligible local educational agencies the sum of—

''(1) an amount that bears the same relationship to 25 percent of the total amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and

''(2) an amount that bears the same relationship to 75 percent of the total amount as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

''SEC. 2122. LOCAL APPLICATIONS AND NEEDS ASSESSMENT.

''(a) IN GENERAL.—To be eligible to receive a subgrant under this subpart, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

''(b) CONTENTS.—Each application submitted under this section shall be based on the needs assessment required in subsection (c) and shall include the following:

''(1)(A) A description of the activities to be carried out by the local educational agency under this subpart and how these activities will be aligned with—

''(i) State content standards, performance standards, and assessments; and

''(ii) the curricula and programs tied to the standards described in clause (i).

''(B) A description of how the activities will be based on a review of relevant research and an explanation of why the activities are expected to improve student performance and outcomes.

''(2) A description of how the activities will have a substantial, measurable, and positive impact on student academic achievement and student performance and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority students from other students.

''(3) An assurance that the local educational agency will target funds to schools served by the local educational agency that—

''(A) have the lowest proportions of highly qualified teachers;

''(B) are identified for school improvement under section 1116(c); or

''(C) are identified for school improvement in accordance with other measures of school quality as determined and documented by the local educational agency.

''(4) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided under other Federal, State, and local programs, including those authorized under—

''(A) title I, part C of this title, part A of title III, and title IV; and

''(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

''(5) A description of how the local educational agency will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this subpart.

''(6) A description of the professional development (including teacher mentoring) activities that will be made available to teachers under this subpart.

''(7) A description of how the local educational agency, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of activities to be carried out under this subpart and in the preparation of the application.

''(8) A description of the results of the needs assessment described in subsection (c).

''(9) A description of how the local educational agency will address the ongoing professional development (including teacher mentoring) needs of teachers and administrators.

''(10) A description of local performance objectives established under section 2142(a)(2).

''(c) NEEDS ASSESSMENT.—

''(1) IN GENERAL.—To be eligible to receive a subgrant under this subpart, a local educational agency shall conduct an assessment of local needs for professional development and hiring, as identified by the local educational agency and school staff.

''(2) REQUIREMENTS.—Such needs assessment shall be conducted with the involvement of teachers, including teachers receiving assistance under part A of title I, and shall take into account the activities that need to be conducted in order to give teachers and, where appropriate, administrators, the means, including subject matter knowledge and teaching skills, to provide students with the opportunity to meet challenging State and local student performance standards.

''SEC. 2123. LOCAL USE OF FUNDS.

''(a) SPECIAL RULE.—

''(1) IN GENERAL.—A local educational agency that receives a subgrant under section 2121 may use the amount described in paragraph (2), of the funds made available through the subgrant, to carry out activities described in section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

''(2) AMOUNT.—The amount referred to in paragraph (1) is the amount received by the agency under that section 306.

''(b) LOCAL USE OF FUNDS.—A local educational agency that receives a subgrant under section 2121 shall use the funds made available through the subgrant to carry out 1 or more of the following activities:

''(1) Providing professional development activities that improve the knowledge of teachers concerning—

''(A) 1 or more of the core academic subjects that the teachers teach;

''(B) effective instructional strategies, methods, and skills for improving student academic achievement and student performance; and

''(C) effective use of State content standards, student performance standards, and assessments to improve instructional practices and improve student achievement and student performance.

''(2) Teacher mentoring.

''(3) Providing teachers and principals with opportunities for professional development through institutions of higher education.

''(4) Providing induction and support for teachers during their first 3 years of teaching.

''(5) Recruiting (including recruiting through the use of scholarships, signing bonuses, or other financial incentives, as well as accelerated paraprofessional-to-teacher training programs and programs that attract mid-career professionals from other professions), hiring, and training regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children, and may include recruiting and hiring certified or licensed teachers to reduce class size), and teachers of special needs children, who are highly qualified.

''(6) Carrying out programs and activities related to—

''(A) reform of teacher tenure systems;

''(B) provision of merit pay for teachers; and

''(C) testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.

"Subpart 3—Subgrants to Eligible Partnerships

"SEC. 2131. SUBGRANTS.

''(a) IN GENERAL.—The State agency for higher education for a State that receives a grant under section 2111, working in conjunction with the State educational agency (if such agencies are separate) shall use the funds reserved under section 2113(a)(3) to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 2133.

''(b) DISTRIBUTION.—The State agency for higher education shall ensure that—

''(1) such subgrants are equitably distributed by geographic area within a State; or

''(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

''(c) SPECIAL RULE.—No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

"SEC. 2132. APPLICATIONS.

''To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

"SEC. 2133. USE OF FUNDS.

''(a) IN GENERAL.—An eligible partnership that receives a subgrant under section 2131 shall use the funds made available through the subgrant for—

''(1) professional development activities in core academic subjects to ensure that teachers, paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach; and

''(2) developing and providing assistance to local educational agencies and individuals who are teachers, paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that—

''(A) ensure that the individuals are able to use State content standards, performance standards, and assessments to improve instructional practices and improve student academic achievement and student performance; and

''(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school.

''(b) COORDINATION.—An eligible partnership that receives a subgrant to carry out this subpart and a grant under section 203 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 203.

"SEC. 2134. DEFINITION.

''In this subpart, the term 'eligible partnership' means an entity that—

''(1) shall include—

''(A) a private or State institution of higher education and the division of the institution that prepares teachers;

''(B) a school of arts and sciences; and

''(C) a high need local educational agency; and

''(2) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, or a business.

"Subpart 4—Accountability

"SEC. 2141. STATE PERFORMANCE OBJECTIVES AND ACCOUNTABILITY.

''(a) REQUIRED ACTIVITIES.—Each State educational agency receiving a grant under this part shall establish for the State annual measurable performance objectives, with respect to teachers teaching in the State, that, at a minimum—

''(1) shall include an annual increase in the percentage of highly qualified teachers, to ensure that all teachers teaching core academic subjects in public elementary schools and secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified not later than the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act);

''(2) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development (including teacher mentoring); and

''(3) may include incremental increases in teacher performance.

''(b) RULE OF APPLICATION.—For purposes of determining whether teachers in a State meet the criteria specified in the performance objectives referred to in subsection (a), the requirements of subsection (a) shall not apply to teachers in charter schools in the State if the State has a charter school law that exempts such teachers from State certification and licensing requirements.

''(c) REPORTS.—

''(1) INITIAL REPORTS.—Not later than the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act), each State educational agency receiving a grant under this part shall prepare and submit to the Secretary an initial report describing the State's progress with respect to the performance objectives described in this section.

''(2) SUBSEQUENT REPORTS.—

''(A) STATES SUBJECT TO SANCTIONS.—The State educational agency for a State that has received sanctions under subsection (d) shall annually prepare and submit to the Secretary a report describing such progress, until the State is no longer subject to the sanctions.

''(B) STATES NOT SUBJECT TO SANCTIONS.—A State educational agency that is not required to submit annual reports under subparagraph (A) shall periodically prepare and submit to the Secretary a report describing such progress, to ensure that the State is in compliance with the requirements of this section.

''(d) ACCOUNTABILITY.—

''(1) REDUCTION OF FUNDS.—

''(A) FOURTH YEAR.—If the Secretary determines that the State educational agency has failed to meet the performance objectives established under subsection (a), and has failed to make adequate yearly progress as described under section 1111(b)(2), by the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act), the Secretary shall withhold 15 percent of the amount of funds that the State may reserve for State administration under this part for the fifth year for which the State receives such funds.

''(B) FIFTH OR SIXTH YEAR.—If the Secretary determines that the State educational agency has failed to meet the performance objectives established under subsection (a), and has failed to make adequate yearly progress as described under section 1111(b)(2), by the end of the fifth or sixth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act), the Secretary shall withhold 20 percent of the amount of funds that the State may reserve for State administration under this part for the sixth or seventh year, respectively, for which the State receives such funds.

''(2) EXEMPTION.—After making a determination for a year under paragraph (1), the Secretary may provide the State 1 additional year to meet the performance objectives described in subsection (a) or make such adequate yearly progress, before using a sanction described in paragraph (1), if the State demonstrates that exceptional or uncontrollable circumstances have occurred, such as—

''(A) a natural disaster; or

''(B) a situation in which—

''(i) a significant number of teachers has resigned, with insufficient notice, from employment with a local educational agency in the State that has historically had difficulty recruiting and hiring teachers; and

''(ii) the remaining local educational agencies in the State, collectively, have met the performance objectives described in subsection (a) and have made such adequate yearly progress by the end of the year for which the Secretary makes the determination.

"SEC. 2142. LOCAL PERFORMANCE OBJECTIVES AND ACCOUNTABILITY.

''(a) REQUIRED ACTIVITIES.—

''(1) ESTABLISHMENT BY STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall establish for local educational agencies in the State annual measurable performance objectives, with respect to teachers serving the local educational agencies, that, at a minimum—

''(A) shall include the increases described in paragraphs (1) and (2) of section 2141(a); and

''(B) may include the increases described in section 2141(a)(3).

''(2) ESTABLISHMENT BY LOCAL EDUCATIONAL AGENCIES.—Each local educational agency receiving a subgrant under this part—

''(A) shall establish for the local educational agency an annual measurable performance objective for increasing teacher retention among teachers in the first 3 years of their teaching careers; and

''(B) may establish other annual measurable performance objectives.

''(b) REPORTS.—Each local educational agency receiving a subgrant under this part shall annually prepare and submit to the State educational agency a report describing the progress of the local educational agency toward achieving the purpose of this part and meeting the performance objectives described in subsection (a).

''(c) TECHNICAL ASSISTANCE.—If a State educational agency determines that a local educational agency in the State has failed to make substantial progress toward achieving the purpose and meeting the performance objectives described in subsection (a) and has failed to make adequate yearly progress as described under section 1111(b)(2) for 2 consecutive years for which the local educational agency receives funds under this part (as amended by the Better Education for Students and Teachers Act), the State educational agency shall provide technical assistance—

''(1) to the local educational agency; and

''(2) if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency

to achieve the purpose and meet the performance objectives.

''(d) ACCOUNTABILITY.—If the State educational agency determines that the local educational agency has failed to make substantial progress toward achieving the purpose and meeting the performance objectives described in subsection (a), and has failed to make adequate yearly progress as described under section 1111(b)(2), for 3 consecutive years for which the local educational agency receives funds under this part (as amended by the Better Education for Students and Teachers Act), the State educational agency shall—

''(1) withhold the allocation described in section 2121(b) from the local educational agency for 2 fiscal years; and

''(2) use the funds to carry out programs to assist the local educational agency to achieve the purpose and meet the performance objectives

''SEC. 2143. GENERAL ACCOUNTING OFFICE STUDY.

''Not later than January 1, 2005, the Comptroller General of the United States shall prepare and submit to Congress a report setting forth information regarding—

''(1) the progress of the States in achieving compliance concerning increasing the percentage of highly qualified teachers, for fiscal years 2001 through 2003, so that, not later than the end of the fourth year for which the States receive funds under this part (as amended by the Better Education for Students and Teachers Act), all teachers teaching core academic subjects in public elementary schools or secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified;

''(2) any significant obstacles that States face in achieving that compliance, such as teacher shortages in particular academic subjects, grade levels, or geographic areas, district-to-district pay differentials, and particular provisions of collective bargaining agreements; and

''(3) the approximate percentage of Federal, State, and local resources being expended to carry out activities to provide professional development for teachers, and recruit and retain highly qualified teachers, especially in geographic areas and core academic subjects in which a shortage of such teachers exists, so that, not later than the end of the fourth year for which the States receive funds under this part (as amended by the Better Education for Students and Teachers Act), all teachers teaching core academic subjects in public elementary schools or secondary schools, in which not less than 50 percent of the students qualify for free or reduced price lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), are highly qualified.

''Subpart 5—National Programs

''SEC. 2151. NATIONAL PROGRAMS OF DEMONSTRATED EFFECTIVENESS.

''(a) IN GENERAL.—The Secretary shall use funds made available under section 2103(b) to carry out each of the activities described in subsections (b) through (e).

''(b) SCHOOL LEADERSHIP.—The Secretary shall award grants to entities that are State educational agencies, local educational agencies, institutions of higher education, or nonprofit educational organizations, and consortia of such entities, to enable such entities and consortia to recruit and train school leaders (including principals and assistant principals), provide mentorship for new school leaders, and provide ongoing professional development to develop or enhance the leadership skills of school leaders.

''(c) ADVANCED CERTIFICATION OR ADVANCED CREDENTIALING.—

''(1) IN GENERAL.—The Secretary shall support activities to encourage and support teachers seeking advanced certification or advanced credentialing through high quality professional teacher enhancement programs designed to improve teaching and learning.

''(2) IMPLEMENTATION.—In carrying out paragraph (1), the Secretary shall make grants to the National Board for Professional Teaching Standards, State educational agencies, local educational agencies, or other recognized entities, to promote outreach, teacher recruitment, teacher subsidy, or teacher support programs related to teacher certification by the National Board for Professional Teaching Standards and other nationally recognized certification organizations.

''(d) TROOPS-TO-TEACHERS PROGRAM.—

''(1) PURPOSE.—The purpose of this subsection is to authorize a mechanism for the funding and administration of the Troops-to-Teachers Program established by the Troops-to-Teachers Program Act of 1999 (title XVII of the National Defense Authorization Act for Fiscal Year 2000).

''(2) TRANSFER OF FUNDS FOR ADMINISTRATION OF PROGRAM.—To the extent that funds are made available under this Act to the Secretary for the Troops-to-Teachers Program, the Secretary shall use the funds to enter into a contract with the Defense Activity for Non-Traditional Education Support of the Department of Defense. The Defense Activity shall use the amounts made available through the contract to perform the actual administration of the Troops-to-Teachers Program, including the selection of participants in the program under section 1704 of the Troops-to-Teachers Program Act of 1999. The Secretary may retain a portion of the funds to identify local educational agencies with concentrations of children from low-income families or with teacher shortages and States with alternative certification or licensure requirements, as required by section 1702 of such Act.

''(e) TRANSITION TO TEACHING.—The Secretary shall provide assistance for activities to support the development and implementation of national or regional programs to—

''(1) recruit, prepare, place, and support mid-career professionals who have knowledge and experience that will help the professionals become highly qualified teachers, through alternative routes to certification, for high need local educational agencies; and

''(2) help retain the professionals as classroom teachers serving the local educational agencies for more than 3 years.

''(f) NATIONAL TEACHER RECRUITMENT CAMPAIGN.—

''(1) GRANT.—The Secretary shall award a grant, on a competitive basis, to a single national coalition of teacher and media organizations, including the National Teacher Recruitment Clearinghouse, to enable such organizations to jointly conduct a national public service campaign as described in paragraph (2).

''(2) USE OF FUNDS.—A coalition that receives a grant under paragraph (1) shall use amounts made available under the grant to conduct a national public service campaign concerning the resources for and routes to entering the field of teaching. In conducting the campaign, the coalition shall focus on providing information both to a national audience and in specific media markets, and shall specifically expand on, promote, and link the coalition's outreach efforts to, the information referral activities and resources of the National Teacher Recruitment Clearinghouse.

''(3) APPLICATION.—To be eligible to receive a grant under this subsection, a coalition shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,0000 for fiscal year 2002 and each of the 6 succeeding fiscal years.

''PART B—MATHEMATICS AND SCIENCE PARTNERSHIPS

''SEC. 2201. PURPOSE.

''The purpose of this part is to improve the performance of students in the areas of mathematics and science by encouraging States, institutions of higher education, elementary schools, and secondary schools to participate in programs that—

''(1) upgrade the status and stature of mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting and advising such teachers;

''(2) focus on education of mathematics and science teachers as a career-long process that should continuously stimulate teachers' intellectual growth and upgrade teachers' knowledge and skills;

''(3) bring mathematics and science teachers in elementary schools and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge and improve the teaching skills of teachers through the use of more sophisticated laboratory equipment and space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the schools; and

''(4) develop more rigorous mathematics and science curricula that are aligned with State and local standards and with the standards expected for postsecondary study in mathematics and science, respectively.

''SEC. 2202. DEFINITIONS.

''In this part:

''(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that—

''(A) shall include—

''(i) a State educational agency;

''(ii) a mathematics or science department of an institution of higher education; and

''(iii) a local educational agency; and

''(B) may include—

''(i) another mathematics, science, or teacher training department of an institution of higher education;

''(ii) another local educational agency, or an elementary school or secondary school;

''(iii) a business; or

''(iv) a nonprofit organization of demonstrated effectiveness, including a museum.

''(2) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term 'high need local educational agency' has the meaning given the term in section 201(b) of the Higher Education Act of 1965.

''(3) SUMMER WORKSHOP OR INSTITUTE.— The term 'summer workshop or institute' means a workshop or institute, conducted during the summer, that—

''(A) is conducted during a period of not less than 2 weeks;

''(B) provides for a program that provides direct interaction between students and faculty; and

''(C) provides for followup training during the academic year that—

''(i) except as provided in clause (ii) or (iii), shall be conducted in the classroom for a period of not less than 3 days, which may or may not be consecutive;

''(ii) if the program described in subparagraph (B) is for a period of not more than 2 weeks, shall be conducted for a period of more than 3 days; or

''(iii) if the program is for teachers in rural school districts, may be conducted through distance education.

"Subpart 1—Grants to Partnerships

"SEC. 2211. GRANTS AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of carrying out the authorized activities described in section 2213.

''(b) DURATION.—The Secretary shall award grants under this section for a period of 5 years.

''(c) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the costs of the activities assisted under this subpart shall be—

''(A) 75 percent of the costs for the first year an eligible partnership receives a grant payment under this subpart;

''(B) 65 percent of the costs for the second such year; and

''(C) 50 percent of the costs for each of the third, fourth, and fifth such years.

''(2) NON-FEDERAL SHARE.—The non-Federal share of the costs may be provided in cash or in kind, fairly evaluated.

''(d) PRIORITY.—In awarding grants under this subpart the Secretary shall give priority to partnerships that include high need local educational agencies.

"SEC. 2212. APPLICATION REQUIREMENTS.

''(a) IN GENERAL.—Each eligible partnership desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONTENTS.—Each such application shall include—

''(1) an assessment of the teacher quality and professional development needs of all the schools and agencies participating in the eligible partnership with respect to the teaching and learning of mathematics and science;

''(2) a description of how the activities to be carried out by the eligible partnership will be aligned with State and local standards and with other educational reform activities that promote student achievement in mathematics and science;

''(3) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student performance and to strengthen the quality of mathematics and science instruction; and

''(4) a description of—

''(A) how the eligible partnership will carry out the authorized activities described in section 2213; and

''(B) the eligible partnership's evaluation and accountability plan described in section 2214.

"SEC. 2213. AUTHORIZED ACTIVITIES.

''An eligible partnership shall use the grant funds provided under this subpart for 1 or more of the following activities related to elementary schools or secondary schools:

''(1) Developing or redesigning more rigorous mathematics and science curricula that are aligned with State and local standards and with the standards expected for postsecondary study in mathematics and science, respectively.

''(2) Creating opportunities for enhanced and ongoing professional development that improves the subject matter knowledge of mathematics and science teachers.

''(3) Recruiting mathematics and science majors to teaching.

''(4) Promoting strong teaching skills for mathematics and science teachers and teacher educators, including integrating reliable scientifically based research teaching methods into the curriculum.

''(5) Establishing mathematics and science summer workshops or institutes (including followup training) for teachers, using curricula that are experiment-oriented, content-based, and grounded in research that is current as of the date of the workshop or institute involved.

''(6) Establishing distance learning programs for mathematics and science teachers using curricula that are experiment-oriented, content-based, and grounded in research that is current as of the date of the program involved.

''(7) Designing programs to prepare a teacher at a school to provide professional development to other teachers at the school and to assist novice teachers at such school, including (if applicable) a mechanism to integrate experiences from a summer workshop or institute.

''(8) Designing programs to bring teachers into contact with working scientists.

"SEC. 2214. EVALUATION AND ACCOUNTABILITY PLAN.

''Each eligible partnership receiving a grant under this subpart shall develop an evaluation and accountability plan for activities assisted under this subpart that includes strong performance objectives. The plan shall include objectives and measures for—

''(1) improved student performance on State mathematics and science assessments or the Third International Math and Science Study assessment;

''(2) increased participation by students in advanced courses in mathematics and science;

''(3) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science, respectively; and

''(4) increased numbers of mathematics and science teachers who participate in content-based professional development activities.

"SEC. 2215. REPORT; REVOCATION OF GRANT.

''(a) REPORT.—Each eligible partnership receiving a grant under this subpart annually shall report to the Secretary regarding the eligible partnership's progress in meeting the performance objectives described in section 2214.

''(b) REVOCATION.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the performance objectives described in section 2214 by the end of the third year of a grant under this subpart, the grant payments shall not be made for the fourth and fifth year of the grant.

"Subpart 2—Eisenhower Clearinghouse for Mathematics and Science Education

"SEC. 2221. CLEARINGHOUSE.

''(a) GRANT OR CONTRACT.—

''(1) IN GENERAL.—The Secretary, in consultation with the Director of the National Science Foundation, may award a grant or contract to an entity to continue the operation of the Eisenhower National Clearinghouse for Mathematics and Science Education (referred to in this section as the 'Clearinghouse'). The Secretary shall award the grant or contract on a competitive basis, on the basis of merit.

''(2) DURATION.—The grant or contract awarded under paragraph (1) shall be awarded for a period of 5 years.

''(b) CLEARINGHOUSE.—

''(1) USE OF FUNDS.—An entity that receives a grant or contract under subsection (a) shall use the funds made available through the grant or contract to—

''(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary schools and secondary schools, including middle schools;

''(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

''(C) disseminate instructional materials, programs, and information to the public and dissemination networks, including information on model engineering, science, technology, and mathematics teacher mentoring programs;

''(D) coordinate activities with entities operating identifiable databases containing mathematics and science instructional materials and programs, including Federal, non-Federal, and, where feasible, international, databases;

''(E) gather qualitative and evaluative data on submissions to the Clearinghouse;

''(F)(i) solicit and gather (in consultation with the Department, national teacher associations, professional associations, and other reviewers and developers of instructional materials and programs) qualitative and evaluative materials and programs, including full text and graphics, for the Clearinghouse;

''(ii) review the evaluation of the materials and programs, and rank the effectiveness of the materials and programs on the basis of the evaluations, except that nothing in this subparagraph shall be construed to permit the Clearinghouse to directly conduct an evaluation of the materials or programs; and

''(iii) distribute to teachers, in an easily accessible manner, the results of the reviews (in a short, standardized, and electronic format that contains electronic links to an electronic version of the qualitative and evaluative materials and programs described in clause (i)), excerpts of the materials and programs, links to Internet-based sites, and information regarding on-line communities of persons who use the materials and programs; and

''(G) develop and establish an Internet-based site offering a search mechanism to assist site visitors in identifying information available through the Clearinghouse on engineering, science, technology, and mathematics education instructional materials and programs, including electronic links to information on classroom demonstrations and experiments, to teachers who have used materials or participated in programs, to vendors, to curricula, and to textbooks.

''(2) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops mathematics or science education instructional materials or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such materials or programs.

''(3) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

''(4) APPLICATION OF COPYRIGHT LAWS.—Nothing in this section shall be construed to allow the use or copying, in any medium, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the Clearinghouse obtains the permission of the owner of the copyright. The Clearinghouse, in carrying out this subsection, shall ensure compliance with title 17, United States Code.

''(c) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant or contract under subsection (a) to operate the Clearinghouse, an entity shall submit an application to the Secretary at such time, in such manner, and accompanied

by such information as the Secretary may reasonably require.

''(2) PEER REVIEW.—The Secretary shall establish a peer review process to review the applications and select the recipient of the award under subsection (a).

''(d) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State educational agencies, local educational agencies, and institutions of higher education. The information disseminated shall include examples of exemplary national programs in mathematics and science instruction and information on necessary technical assistance for the establishment of similar programs.

''(e) REPORT.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the National Academy of Sciences, in conjunction with appropriate related associations and organizations, shall—

''(1) conduct a study on the Clearinghouse to evaluate the effectiveness of the Clearinghouse in conducting the activities described in subsection (b)(1); and

''(2) submit to Congress a report on the results of the study, including any recommendations of the Academy regarding the Clearinghouse.

"Subpart 3—Preparing Tomorrow's Teachers To Use Technology

"SEC. 2231. PURPOSE; PROGRAM AUTHORITY.

''(a) PURPOSE.—It is the purpose of this subpart to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to meet challenging State and local content and student performance standards.

''(b) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Office of Educational Technology, is authorized to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to pay for the Federal share of the cost of assisting applicants in carrying out projects to develop or redesign teacher preparation programs to enable prospective teachers to use advanced technology effectively in their classrooms.

''(2) PERIOD OF AWARDS.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 5 years.

"SEC. 2232. ELIGIBILITY.

''(a) ELIGIBLE APPLICANTS.—In order to receive an award under this subpart, an applicant shall be a consortium that includes—

''(1) at least 1 institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching;

''(2) at least 1 State educational agency or local educational agency; and

''(3) 1 or more entities consisting of—

''(A) an institution of higher education (other than the institution described in paragraph (1));

''(B) a school or department of education at an institution of higher education;

''(C) a school or college of arts and sciences at an institution of higher education;

''(D) a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

''(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

''(1) a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to meet challenging State and local content and student performance standards;

''(2) a demonstration of—

''(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

''(B) the active support of the leadership of each organization that is a member of the consortium for the proposed project;

''(3) a description of how each member of the consortium will be included in project activities;

''(4) a description of how the proposed project will be continued after Federal funds are no longer awarded under this subpart; and

''(5) a plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

''(c) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

''(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this subpart may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

"SEC. 2233. USE OF FUNDS.

''(a) REQUIRED USES.—A recipient of an award under this subpart shall use funds made available under this subpart for—

''(1) a project that creates programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to meet challenging State and local content and student performance standards; and

''(2) evaluating the effectiveness of the project.

''(b) PERMISSIBLE USES.—The recipient may use funds made available under this subpart for activities, described in the application submitted by the recipient under this subpart, that carry out the purpose of this subpart, such as—

''(1) developing and implementing high-quality teacher preparation programs that enable educators to—

''(A) learn the full range of resources that can be accessed through the use of technology;

''(B) integrate a variety of technologies into the classroom in order to expand students' knowledge;

''(C) evaluate educational technologies and their potential for use in instruction; and

''(D) help students develop their technical skills and digital learning environments;

''(2) developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators;

''(3) developing performance-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms;

''(4) providing technical assistance to entities carrying out other teacher preparation programs;

''(5) developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and

''(6) subject to section 2232(c)(2), acquiring equipment, networking capabilities, and infrastructure to carry out the project.

"Subpart 4—General Provisions

"SEC. 2241. CONSULTATION WITH NATIONAL SCIENCE FOUNDATION.

''In carrying out the activities authorized by this part, the Secretary shall consult and coordinate activities with the Director of the National Science Foundation, particularly with respect to the appropriate roles for the Department and the Foundation in the conduct of summer workshops or institutes provided by the eligible partnerships to improve mathematics and science teaching in elementary schools and secondary schools.

"SEC. 2242. AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS.—There are authorized to be appropriated to carry out subpart 1 $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) CLEARINGHOUSE.—There are authorized to be appropriated to carry out subpart 2 $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) TECHNOLOGY PREPARATION.—There are authorized to be appropriated to carry out subpart 3 $150,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"PART C—STATE AND LOCAL PROGRAMS FOR TECHNOLOGY USE IN CLASSROOMS

"SEC. 2301. PURPOSE; GOAL.

''(a) PURPOSE.—The purpose of this part is to support a comprehensive system to effectively use technology in elementary and secondary schools to improve student academic achievement and performance.

''(b) GOAL.—A goal of this part shall also be to assist every student in crossing the digital divide by ensuring that every child is technologically literate by the time the child finishes the 8th grade, regardless of the child's race, ethnicity, gender, income, geography, or disability.

"SEC. 2302. DEFINITIONS.

''In this part:

''(1) ADULT EDUCATION.—The term 'adult education' has the meaning given the term in section 312(2) of the Adult Education Act (20 U.S.C. 1201a(2)).

''(2) ALL STUDENTS.—The term 'all students' means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, and academically talented students.

''(3) CHILD IN POVERTY.—The term 'child in poverty' means a child from a family with a family income below the poverty line (as defined in section 2102).

''(4) INFORMATION INFRASTRUCTURE.—The term 'information infrastructure' means a network of communication systems designed to exchange information among all citizens and residents of the United States.

''(5) INTEROPERABLE; INTEROPERABILITY.—The terms 'interoperable' and 'interoperability' mean the ability to exchange data easily with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users.

''(6) PUBLIC TELECOMMUNICATIONS ENTITY.—The term 'public telecommunications entity'

has the meaning given the term in section 397(12) of the Communications Act of 1934 (47 U.S.C. 397(12)).

''(7) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part.

''(8) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' has the meaning given the term in section 213(5) of the Library Services and Technology Act (20 U.S.C. 9122(5)).

''SEC. 2303. ALLOTMENT AND REALLOTMENT.

''(a) LIMITATION.—From funds appropriated under this part, the Secretary shall first reserve such sums as may be necessary for grants awarded under section 3136 prior to the date of enactment of the Better Education for Students and Teacher Act.

''(b) ALLOTMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this part for a fiscal year in an amount which bears the same relationship to the amount made available under section 2310 for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

''(2) MINIMUM.—No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than ½ of 1 percent of the amount made available under section 2310 for such year.

''(c) REALLOTMENT OF UNUSED FUNDS.—

''(1) IN GENERAL.—The amount of any State educational agency's allotment under subsection (b) for any fiscal year which the State determines will not be required for such fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (b) for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the State estimates such State needs and will be able to use for such year.

''(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agency's allotment under subsection (b) for such year.

''SEC. 2304. TECHNOLOGY GRANTS.

''(a) GRANTS TO STATES.—

''(1) IN GENERAL.—From amounts made available under section 2303, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 2305.

''(2) USE OF GRANTS.—

''(A) AWARD TO AGENCIES.—Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 2306.

''(B) SUFFICIENCY.—In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

''(C) PRIORITY.—In awarding the grants, each State educational agency shall give priority to the local educational agencies serving the school districts that have the highest number or percentage of children in poverty.

''(D) DISTRIBUTION.—In awarding the grants, each State educational agency shall assure an equitable distribution of assistance under this part among urban and rural areas of the State, according to the demonstrated need of the local educational agencies serving the areas.

''(b) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under subsection (a) shall—

''(1) identify the local educational agencies served by the State educational agency that—

''(A) have the highest number or percentage of children in poverty; and

''(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under 2307; and

''(2) offer such technical assistance to such local educational agencies.

''SEC. 2305. STATE APPLICATION.

''To receive a grant under this part, each State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including a systemic statewide educational technology plan that—

''(1) outlines the long-term strategies for improving student performance and student academic achievement through the effective use of technology in classrooms throughout the State;

''(2) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

''(3) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to improve student academic achievement and student performance.

''SEC. 2306. LOCAL USES OF FUNDS.

''(a) IN GENERAL.—Each local educational agency, to the extent possible, shall use the funds made available under section 2304(a)(2) for—

''(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort to improve student academic achievement and student performance;

''(2) providing ongoing professional development in the integration of quality educational technologies into school curriculum;

''(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students, and school library media personnel in the classroom or in school library media centers, in order to improve student academic achievement and student performance;

''(4) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries;

''(5) providing educational services for adults and families; and

''(6) repairing and maintaining school technology equipment.

''(b) SPECIAL RULE.—A local educational agency receiving a grant under this part shall use at least 30 percent of allocated funds for professional development.

''SEC. 2307. LOCAL APPLICATION.

''(a) APPLICATION.—Each local educational agency desiring assistance from a State educational agency under section 2304(a)(2) shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall include an updated version of a strategic, long-range plan (3 to 5 years) that includes—

''(1) a description of how the activities to be carried out by the local educational agency under this part will be based on a review of relevant research and an explanation of why the activities are expected to improve student achievement;

''(2) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency improve student academic achievement, student performance, and teaching;

''(3) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

''(4) an explanation of how programs will be developed in collaboration with existing adult literacy service providers to maximize the use of such technologies;

''(5) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the effective use of technology in the classroom or library media center, including a list of those entities that will partner with the local educational agency in providing ongoing sustained professional development;

''(6) a description of the supporting resources, such as services, software, and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this part;

''(7) the projected cost of technologies to be acquired and related expenses needed to implement the plan;

''(8) a description of how the local educational agency will coordinate the technology provided pursuant to this part with other grant funds available for technology from other Federal, State, and local sources;

''(9) a description of a process for the ongoing evaluation of how technologies acquired under this part will be integrated into the school curriculum; and will affect student academic achievement and student performance as related to challenging State content standards and State student performance standards in all subjects; and

''(10) a description of the evaluation plan that the local educational agency will carry out pursuant to section 2308(a).

''(b) FORMATION OF CONSORTIA.—A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers

and students in a local educational agency at the request of such local educational agency.

''(c) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, the State educational agency may approve such plan, or a component of such plan if the State educational agency determines that such approval would further the purposes of this part.

''SEC. 2308. ACCOUNTABILITY.

''(a) EVALUATION PLAN.—Each local educational agency receiving funds under this part shall establish and include in the agency's application submitted under section 2307 an evaluation plan that requires evaluation of the agency and the schools served by the agency with respect to strong performance objectives and other measures concerning—

''(1) increased professional development in the effective use of technology in educating students with the goal of improving student academic achievement and student performance;

''(2) increased access to technology in the classroom, especially in low-income schools; and

''(3) other indicators reflecting increased student academic achievement or student performance.

''(b) REPORT.—Each local educational agency receiving a grant under this part shall annually prepare and submit to the State educational agency a report regarding the progress of the local educational agency and the schools served by the local educational agency toward achieving the purposes of this part and meeting the performance objectives and measures described in this section.

''(c) SANCTION.—If after 3 years, the local educational agency does not show measurable improvements in all of the areas, the local educational agency shall not receive funds for the remaining grant years.

''(d) ASSISTANCE.—The State educational agency shall provide technical assistance to the local educational agency to assist them in meeting the performance objectives and measures described in this section.

''SEC. 2309. NATIONAL EDUCATION TECHNOLOGY PLAN.

''(a) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall prepare the national long-range plan that supports the overall national technology policy. The Secretary shall update such plan periodically when appropriate.

''(b) CONSULTATION.—In preparing the plan described in subsection (a), the Secretary shall consult with other Federal departments or agencies, State and local education practitioners, and policymakers, including teachers, principals, and superintendents, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act or the Technology Challenge Fund program, and providers of technology services and products.

''(c) SUBMISSION; PUBLICATION.—Upon completion of the plan described in subsection (a), the Secretary shall—

''(1) submit such plan to the President and to the appropriate committees of Congress; and

''(2) publish such plan in a form that is readily accessible to the public, including on the Internet.

''(d) CONTENT OF THE PLAN.—The plan described in subsection (a) shall describe the following:

''(1) EFFECTIVE USE.—The plan shall describe the manner in which the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve challenging State academic content standards and challenging State student performance standards, especially through programs administered by the Department.

''(2) JOINT ACTIVITIES.—The plan shall describe joint activities in support of the overall national technology policy to be carried out with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

''(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

''(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible.

''(3) COLLABORATION.—The plan shall describe the manner in which the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector, including the Universal Service Administrative Company, to facilitate the effective use of technology in education.

''(4) PROMOTING ACCESS.—The plan shall describe the manner in which the Secretary will promote—

''(A) higher academic achievement and performance of all students through the integration of technology into the curriculum;

''(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

''(C) the use of technology to assist in the implementation of State systemic reform strategies;

''(D) the application of technological advances to use in improving educational opportunities;

''(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

''(F) increased opportunities for the professional development of teachers in the use of new technologies.

''(5) GUIDELINES.—The plan shall describe the manner in which the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in improving educational opportunities.

''(6) EXCHANGE.—The plan shall describe the manner in which the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in improving educational opportunities.

''(7) GOALS.—The plan shall describe the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

''SEC. 2310. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this part $1,000,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) LIMITATION.—Not more than 5 percent of the funds made available to a recipient under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.''.

SEC. 202. TEACHER MOBILITY.

(a) SHORT TITLE.—This section may be cited as the ''Teacher Mobility Act''.

(b) PORTABILITY OF TEACHER PENSIONS AND CREDENTIALS.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), as amended by section 201, is further amended by adding at the end the following:

''PART D—PORTABILITY OF TEACHER PENSIONS AND CREDENTIALS

''SEC. 2401. DEFINITION.

''In this part, the term 'pension' means a pension provided under an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974.

''SEC. 2402. NATIONAL PANEL ON PORTABILITY OF TEACHER PENSIONS AND CREDENTIALS.

''(a) ESTABLISHMENT.—There is established a panel to be known as the National Panel on Portability of Teacher Pensions and Credentials (referred to in this section as the 'panel').

''(b) MEMBERSHIP.—The panel shall be composed of 9 members appointed by the Secretary. The Secretary shall appoint the members from among practitioners and experts with experience relating to teacher pensions and credentials, such as pension managers, teachers, members of teacher certification or licensing bodies, faculty of institutions of higher education that prepare teachers, and State policymakers with such experience.

''(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the panel. Any vacancy in the panel shall not affect the powers of the panel, but shall be filled in the same manner as the original appointment.

''(d) DUTIES.—

''(1) STUDY.—The panel shall study various options for increasing the reciprocity of recognition of teacher credentials, and the portability of teacher pensions, between States.

''(2) REPORT.—Not later than 1 year after the date on which all members of the panel have been appointed, the panel shall submit to the Secretary and to the appropriate committees of Congress a report containing the results of the study.

''(e) POWERS.—

''(1) HEARINGS.—The panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers advisable to carry out the objectives of this section.

''(2) INFORMATION FROM FEDERAL AGENCIES.—The panel may secure directly from any Federal department or agency such information as the panel considers necessary to carry out the provisions of this section. Upon request of a majority of the members of the panel, the head of such department or agency shall furnish such information to the panel.

''(3) POSTAL SERVICES.—The panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(f) PERSONNEL.—

''(1) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but 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 panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

''(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(g) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002.

''(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.''.

TITLE III—MOVING LIMITED ENGLISH PROFICIENT STUDENTS TO ENGLISH FLUENCY

SEC. 301. BILINGUAL EDUCATION.

Title III (20 U.S.C. 6511 et seq.) is amended to read as follows:

''TITLE III—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

''PART A—BILINGUAL EDUCATION

''SEC. 3001. SHORT TITLE.

''This part may be cited as the 'Bilingual Education Act'.

''SEC. 3002. PURPOSE.

''The purpose of this part is to help ensure that limited English proficient students master English and meet the same rigorous standards for academic performance as all children and youth are expected to meet, including meeting challenging State content standards and challenging State student performance standards in academic subjects by—

''(1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient students;

''(2) developing bilingual skills and multicultural understanding;

''(3) developing the English of limited English proficient children and youth and, to the extent possible, the native language skills of such children and youth;

''(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

''(5) developing data collection and dissemination, research, materials, and technical assistance that are focused on school improvement for limited English proficient students; and

''(6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient students.

''SEC. 3003. AUTHORIZATION OF APPROPRIATIONS.

''(a) BILINGUAL EDUCATION.—There are authorized to be appropriated to carry out this part $700,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) STATE AND LOCAL GRANTS.—Notwithstanding subsection (a), for any fiscal year for which the amount of funds appropriated under subsection (a) is not less than $700,000,000, the funds shall be used to carry out part D.

''SEC. 3004. NATIVE AMERICAN CHILDREN IN SCHOOL.

''(a) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American (including Alaska Native) children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency.

''(2) DEFINITIONS.—In this section:

''(A) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(B) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

''(i) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

''(ii) any nonprofit institution or organization that is—

''(I) chartered by the governing body of an Indian tribe to operate any school operated predominately for Indian children and youth or otherwise to oversee the delivery of educational services to members of that tribe; and

''(II) approved by the Secretary for the purpose of this section.

''(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the program proposed in the application.

''SEC. 3005. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED STATES.

''For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' includes public institutions or agencies whose mission is the preservation and maintenance of native languages.

''Subpart 1—Bilingual Education Capacity and Demonstration Grants

''SEC. 3101. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.

''The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 3102 and 3103, to—

''(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

''(2) help such children and youth—

''(A) develop proficiency in English, and to the extent possible, their native language; and

''(B) meet the same challenging State content standards and challenging State student performance standards as all children and youth are expected to meet under section 1111(b).

''SEC. 3102. PROGRAM ENHANCEMENT PROJECTS.

''(a) PURPOSE.—The purpose of this section is to—

''(1) provide grants to eligible entities to provide innovative, locally designed, high quality instruction to children and youth of limited English proficiency;

''(2) help children and youth develop proficiency in the English language by expanding or strengthening instructional programs; and

''(3) help children and youth attain the standards established under section 1111(b).

''(b) PROGRAM AUTHORIZED.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3104 to enable such entities to carry out activities described in paragraph (2).

''(B) PERIOD.—Each grant awarded under this section shall be awarded for a period of 3 years.

''(2) AUTHORIZED ACTIVITIES.—

''(A) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

''(i) developing, implementing, expanding, or enhancing comprehensive preschool, elementary, or secondary education programs for limited English proficient children and youth, that are—

''(I) aligned with State and local content and student performance standards, and local school reform efforts; and

''(II) coordinated with related services for children and youth;

''(ii) providing high quality professional development to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of limited English proficient students; and

''(iii) annually assessing the English proficiency of all limited English proficient students served by activities carried out under this section.

''(B) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

''(i) implementing programs to upgrade the reading and other academic skills of limited English proficient students;

''(ii) developing accountability systems to monitor the academic progress of limited English proficient and formerly limited English proficient students;

''(iii) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

''(iv) improving the instructional programs for limited English proficient students by identifying, acquiring, and applying effective curricula, instructional materials (including materials provided through technology), and assessments that are all aligned with State and local standards;

''(v) providing intensified instruction, including tutorials and academic or career counseling, for children and youth who are limited English proficient;

''(vi) adapting best practice models for meeting the needs of limited English proficient students;

''(vii) assisting limited English proficient students with disabilities;

''(viii) implementing applied learning activities such as service learning to enhance and support comprehensive elementary and secondary bilingual education programs; and

''(ix) carrying out such other activities related to the purpose of this part as the Secretary may approve.

''(c) PRIORITY.—In awarding grants under this section, the Secretary may give priority to an entity that—

''(1) serves a school district—

''(A) that has a total district enrollment that is less than 10,000 students; or

''(B) with a large percentage or number of limited English proficient students; and

''(2) has limited or no experience in serving limited English proficient students.

''(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) 1 or more local educational agencies;

''(2) 1 or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency; or

''(3) a community-based organization or an institution of higher education that has an application approved by the local educational agency to participate in programs carried out under this subpart by enhancing early childhood education or family education programs or conducting instructional programs that supplement the educational services provided by a local educational agency.

''SEC. 3103. COMPREHENSIVE SCHOOL AND SYSTEMWIDE IMPROVEMENT GRANTS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to provide financial assistance to schools and local educational agencies for implementing bilingual education programs, in coordination with programs carried out under this title, for children and youth of limited English proficiency;

''(2) to assist limited English proficient students to meet the standards established under section 1111(b); and

''(3) to improve, reform, and upgrade relevant instructional programs and operations, carried out by schools and local educational agencies, that serve significant percentages of students of limited English proficiency or significant numbers of such students.

''(b) AUTHORIZED ACTIVITIES.—

''(1) AUTHORITY.—The Secretary may award grants to eligible entities having applications approved under section 3104 to enable such entities to carry out activities described in paragraphs (2) and (3).

''(2) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

''(A) improving instructional programs for limited English proficient students by acquiring and upgrading curricula and related instructional materials;

''(B) aligning the activities carried out under this section with State and local school reform efforts;

''(C) providing training, aligned with State and local standards, to school personnel and participating community-based organization personnel to improve the instruction and assessment of limited English proficient students;

''(D) developing and implementing plans, coordinated with plans for programs carried out under title II of the Higher Education Act of 1965 (where applicable), and title II of this Act (where applicable), to recruit teachers trained to serve limited English proficient students;

''(E) implementing culturally and linguistically appropriate family education programs, or parent outreach and training activities, that are designed to assist parents to become active participants in the education of their children;

''(F) coordinating the activities carried out under this section with other programs, such as programs carried out under this title;

''(G) providing services to meet the full range of the educational needs of limited English proficient students;

''(H) annually assessing the English proficiency of all limited English proficient students served by the activities carried out under this section; and

''(I) developing or improving accountability systems to monitor the academic progress of limited English proficient students.

''(3) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

''(A) implementing programs to upgrade reading and other academic skills of limited English proficient students;

''(B) developing and using educational technology to improve learning, assessments, and accountability to meet the needs of limited English proficient students;

''(C) implementing scientifically based research programs to meet the needs of limited English proficient students;

''(D) providing tutorials and academic or career counseling for limited English proficient children and youth;

''(E) developing and implementing State and local content and student performance standards for learning English as a second language, as well as for learning other languages;

''(F) developing and implementing programs for limited English proficient students to meet the needs of changing populations of such students;

''(G) implementing policies to ensure that limited English proficient students have access to other education programs (other than programs designed to address limited English proficiency), such as gifted and talented, vocational education, and special education programs;

''(H) assisting limited English proficient students with disabilities;

''(I) developing and implementing programs to help all students become proficient in more than 1 language; and

''(J) carrying out such other activities related to the purpose of this part as the Secretary may approve.

''(4) SPECIAL RULE.—A recipient of a grant under this section, before carrying out activities under this section, shall plan, train personnel, develop curricula, and acquire or develop materials, but shall not use funds made available under this section for planning purposes for more than 90 days. The recipient shall commence carrying out activities under this section not later than 90 days after the date of receipt of the grant.

''(c) AVAILABILITY OF APPROPRIATIONS.—

''(1) RESERVATION OF FUNDS FOR CONTINUED PAYMENTS.—

''(A) COVERED GRANT.—In this paragraph, the term 'covered grant' means a grant—

''(i) that was awarded under section 7114 or 7115 (as such sections were in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(ii) for which the grant period has not ended.

''(B) RESERVATION.—For any fiscal year that is part of the grant period of a covered grant, the Secretary shall reserve funds for the payments described in subparagraph (C) from the amount appropriated for the fiscal year under section 3003 and made available for carrying out this section.

''(C) PAYMENTS.—The Secretary shall continue to make grant payments to each entity that received a covered grant, for the duration of the grant period of the grant, to carry out activities in accordance with the appropriate section described in subparagraph (A)(i).

''(2) AVAILABILITY.—Of the amount appropriated for a fiscal year under section 3003 that is made available for carrying out this section, and that remains after the Secretary reserves funds for payments under paragraph (1)—

''(A) not less than ⅓ of the remainder shall be used to award grants for activities carried out within an entire school district; and

''(B) not less than ⅔ of the remainder shall be used to award grants for activities carried out within individual schools.

''(d) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means—

''(1) 1 or more local educational agencies; or

''(2) 1 or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

''SEC. 3104. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SECRETARY.—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

''(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity under this section to the State educational agency.

''(b) STATE REVIEW AND COMMENTS.—

''(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and submit the written comments of the agency regarding the application to the Secretary.

''(2) COMMENTS.—

''(A) SUBMISSION OF COMMENTS.—Regarding applications submitted under this subpart, the State educational agency shall—

''(i) submit to the Secretary written comments regarding all such applications; and

''(ii) submit to each eligible entity the comments that pertain to such entity.

''(B) SUBJECT.—For purposes of this subpart, such comments shall address—

''(i) how the activities to be carried out under the grant will further the academic achievement and English proficiency of limited English proficient students served under the grant; and

''(ii) how the grant application is consistent with the State plan required under section 1111.

''(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

''(d) COMMENT CONSIDERATION.—In making grants under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

''(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement specified in subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 3124, particularly such agency's ability to carry out data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

''(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that—

''(1) the applicant has the qualified personnel required to develop, administer, and implement the program proposed in the application; and

''(2) the leadership personnel of each school participating in the program have been involved in the development and planning of the program in the school.

''(g) CONTENTS.—

''(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

''(A) A description of the need for the proposed program, including—

''(i) data on the number of limited English proficient students in the school or school district to be served;

''(ii) information on the characteristics of such students, including—

''(I) the native languages of the students;

''(II) the proficiency of the students in English and their native language;

''(III) achievement data (current as of the date of submission of the application) for the limited English proficient students in—

''(aa) reading or language arts (in English and in the native language, if applicable); and

''(bb) mathematics;

''(IV) a comparison of that data for the students with that data for the English proficient peers of the students; and

''(V) the previous schooling experiences of the students;

''(iii) the professional development needs of the instructional personnel who will provide services for the limited English proficient students under the proposed program; and

''(iv) how the services provided through the grant will supplement the basic services provided to limited English proficient students.

''(B) A description of the program to be implemented and how such program's design—

''(i) relates to the linguistic and academic needs of the children and youth of limited English proficiency to be served;

''(ii) will ensure that the services provided through the program will supplement the basic services the applicant provides to limited English proficient students;

''(iii) will ensure that the program is coordinated with other programs under this Act and other Acts;

''(iv) involves the parents of the children and youth of limited English proficiency to be served;

''(v) ensures accountability in achieving high academic standards; and

''(vi) promotes coordination of services for the children and youth of limited English proficiency to be served and their families.

''(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local educational agencies or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

''(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

''(E) An assurance that the applicant will employ teachers in the proposed program who, individually or in combination, are proficient in—

''(i) English, with respect to written, as well as oral, communication skills; and

''(ii) the native language of the majority of the students that the teachers teach, if instruction in the program is in the native language as well as English.

''(F) A budget for the grant funds.

''(2) ADDITIONAL INFORMATION.—Each application for a grant under section 3103 shall—

''(A) describe—

''(i) current services (as of the date of submission of the application) the applicant provides to children and youth of limited English proficiency;

''(ii) what services children and youth of limited English proficiency will receive under the grant that such children or youth will not otherwise receive;

''(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited English proficiency;

''(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

''(v) the current family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

''(B) provide assurances that—

''(i) the program funded with the grant will be integrated with the overall educational program of the students served through the proposed program; and

''(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such program.

''(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

''(1) the program proposed in the application will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

''(2) in designing the program, the eligible entity has, after consultation with appropriate private school officials—

''(A) taken into account the needs of children in nonprofit private elementary schools and secondary schools; and

''(B) in a manner consistent with the number of such children enrolled in such schools in the area to be served, whose educational needs are of the type and whose language, and grade levels are of a similar type to the needs, language, and grade levels that the program is intended to address, provided for the participation of such children on a basis comparable to the basis on which public school children participate;

''(3)(A) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students; and

''(B) limited English proficient students with disabilities will be identified and served through the program in accordance with the requirements of the Individuals with Disabilities Education Act;

''(4) Federal funds made available for the program will be used to supplement the State and local funds that, in the absence of such Federal funds, would be expended for special programs for children of limited English proficient individuals, and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds made available under this subpart—

''(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

''(B) to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided to such children;

''(5)(A) the assistance provided through the grant will contribute toward building the capacity of the eligible entity to provide a program on a regular basis, similar to the proposed program, that will be of sufficient size, scope, and quality to promise significant improvement in the education of limited English proficient students; and

''(B) the eligible entity will have the resources and commitment to continue the program of sufficient size, scope, and quality when assistance under this subpart is reduced or no longer available; and

''(6) the eligible entity will use State and national dissemination sources for program design and dissemination of results and products.

''(i) PRIORITIES AND SPECIAL RULES.—

''(1) PRIORITY.—In approving applications for grants for programs under this subpart, the Secretary shall give priority to an applicant who—

''(A) experiences a dramatic increase in the number or percentage of limited English proficient students enrolled in the applicant's programs and has limited or no experience in serving limited English proficient students;

''(B) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

''(C) demonstrates that the applicant has a proven record of success in helping limited English proficient children and youth learn English and meet high academic standards;

''(D) proposes programs that provide for the development of bilingual proficiency both in English and another language for all participating students; or

''(E) serves a school district with a large number or percentage of limited English proficient students.

''(2) CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local educational agency and State educational agency, or businesses.

''(3) DUE CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give due consideration to an application that—

''(A) provides for training for personnel participating in or preparing to participate in the program that will assist such personnel in meeting State and local certification requirements; and

''(B) to the extent possible, describes how credit at an institution of higher education will be awarded for such training.

"SEC. 3105. CAPACITY BUILDING.

''Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited English proficiency after Federal assistance is reduced or eliminated.

"SEC. 3106. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

''Programs authorized under this subpart that serve Native American children (including Native American Pacific Islander children), and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this subpart, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited Spanish proficiency, except that 1 outcome of such programs serving Native American children shall be increased English proficiency among such children.

"SEC. 3107. EVALUATIONS.

''(a) EVALUATION.—Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report concerning the evaluation, in the form prescribed by the Secretary.

''(b) USE OF EVALUATION.—Such evaluation shall be used by the grant recipient—

''(1) for program improvement;

''(2) to further define the program's goals and objectives; and

''(3) to determine program effectiveness.

''(c) EVALUATION REPORT COMPONENTS.—In preparing the evaluation reports, the recipient shall—

''(1) use the data provided in the application submitted by the recipient under section 3104 as baseline data against which to report academic achievement and gains in English proficiency for students in the program;

''(2) disaggregate the results of the evaluation by gender, language groups, and whether the students have disabilities;

''(3) include data on the progress of the recipient in achieving the objectives of the program, including data demonstrating the extent to which students served by the program are meeting the State's student performance standards, and including data comparing limited English proficient students with English proficient students with regard to school retention and academic achievement concerning—

''(A) reading and language arts;

''(B) English proficiency;

''(C) mathematics; and

''(D) the native language of the students if the program develops native language proficiency;

''(4) include information on the extent that professional development activities carried out through the program have resulted in improved classroom practices and improved student performance;

''(5) include a description of how the activities carried out through the program are coordinated and integrated with the other Federal, State, or local programs serving limited English proficient children and youth; and

''(6) include such other information as the Secretary may require.

''SEC. 3108. CONSTRUCTION.

''Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''Subpart 2—Research, Evaluation, and Dissemination

''SEC. 3121. AUTHORITY.

''(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

''(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded to institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies.

''(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

''SEC. 3122. RESEARCH.

''(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

''(b) REQUIREMENTS.—Such research activities—

''(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

''(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by a teacher or other staff member who does not know the native language of a limited English proficient child or youth in the teacher's or staff member's classroom;

''(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of 'limited English proficient student' for purposes of national data collection; and

''(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

''(c) FIELD-INITIATED RESEARCH.—

''(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by recipients of grants under subpart 1 or this subpart who have received such grants within the previous 5 years. Such research may provide for longitudinal studies of students or teachers into bilingual education, monitoring the education of such students from entry into bilingual education through secondary school completion.

''(2) APPLICATIONS.—An applicant for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as the applicant submits another application under subpart 1 or this subpart. The Secretary shall complete a review of such applications on a timely basis to allow the activities carried out under research and program grants to be coordinated when recipients are awarded 2 or more of such grants.

''(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners, to identify areas of study and activities to be funded under this section.

''(e) DATA COLLECTION.—The Secretary shall provide for the collection of data on limited English proficient students as part of the data systems operated by the Department.

''SEC. 3123. ACADEMIC EXCELLENCE AWARDS.

''(a) AUTHORITY.—The Secretary may make grants to State educational agencies to assist the agencies in recognizing local educational agencies and other public and nonprofit entities whose programs have—

''(1) demonstrated significant progress in assisting limited English proficient students to learn English according to age appropriate and developmentally appropriate standards; and

''(2) demonstrated significant progress in assisting limited English proficient children and youth to meet, according to age appropriate and developmentally appropriate standards, the same challenging State content standards as all children and youth are expected to meet.

''(b) APPLICATIONS.—A State educational agency desiring a grant under this section shall include an application for such grant in the application submitted by the agency under section 3124(e).

''SEC. 3124. STATE GRANT PROGRAM.

''(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

''(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies and entities within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $200,000.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—A State educational agency shall use funds awarded under this section to—

''(A) assist local educational agencies in the State with activities that—

''(i) consist of program design, capacity building, assessment of student performance, program evaluation, and development of data collection and accountability systems for limited English proficient students; and

''(ii) are aligned with State reform efforts; and

''(B) collect data on the State's limited English proficient populations and document the services available to all such populations.

''(2) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

''(3) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

''(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this subpart and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this subpart.

''(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

''(f) SUPPLEMENT NOT SUPPLANT.—Federal funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the State funds that, in the absence of such Federal funds, would be made available for the purposes described in this section, and in no case to supplant such State funds.

''(g) REPORT TO THE SECRETARY.—A State educational agency receiving an award under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of the funds made available through the award.

''SEC. 3125. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

''(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

''(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

''(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

''(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

''(3) develop a database management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs;

''(4) develop, maintain, and disseminate a listing, by geographical area, of education professionals, parents, teachers, administrators, community members, and others, who are native speakers of languages other than

English, for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs; and

''(5) publish, on an annual basis, a list of grant recipients under this subpart.

''SEC. 3126. INSTRUCTIONAL MATERIALS DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants for the development, publication, and dissemination of high-quality instructional materials—

''(1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instructional materials are not readily available; and

''(2) in other low-incidence languages in the United States for which instructional materials are not readily available.

''(b) PRIORITY.—In making the grants, the Secretary shall give priority to applicants for the grants who propose—

''(1) to develop instructional materials in languages indigenous to the United States or the outlying areas; and

''(2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 and this subpart, that are consistent with voluntary national content standards and challenging State content standards.

''Subpart 3—Professional Development

''SEC. 3131. PURPOSE.

''The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

''SEC. 3132. TRAINING FOR ALL TEACHERS PROGRAM.

''(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies, and resources specific to limited English proficient students into preservice and inservice professional development programs for individuals who are teachers, pupil services personnel, administrators, or other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

''(b) AUTHORIZATION.—

''(1) AUTHORITY.—The Secretary may award grants under this section to—

''(A) local educational agencies; or

''(B) 1 or more local educational agencies in a consortium with 1 or more State educational agencies, institutions of higher education, or nonprofit organizations.

''(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years.

''(c) AUTHORIZED ACTIVITIES.—

''(1) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Grants awarded under this section shall be used to conduct high-quality, long-term professional development activities relating to meeting the needs of limited English proficient students, which may include—

''(A) developing and implementing induction programs for new teachers, including programs that provide mentoring and coaching by trained teachers, and team teaching with experienced teachers;

''(B) implementing school-based collaborative efforts among teachers to improve instruction in core academic areas, including reading, for students of limited English proficiency;

''(C) coordinating activities with entities carrying out other programs, such as other programs carried out under this title, title II, and the Head Start Act;

''(D) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

''(E) establishing and maintaining local professional networks;

''(F) developing curricular materials and assessments for teachers that are aligned with State and local standards and the needs of the limited English proficient students to be served; and

''(G) carrying out such other activities as are consistent with the purpose of this section.

''(2) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used to conduct activities that include the development of training programs in collaboration with entities carrying out other programs, such as other programs authorized under this title, title II, and the Head Start Act.

''SEC. 3133. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.

''(a) PURPOSE.—The purpose of this section is to provide for—

''(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited English proficiency; and

''(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited English proficiency.

''(b) PROGRAM AUTHORIZED.—

''(1) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—The Secretary is authorized to award grants for a period of not more than 5 years to institutions of higher education, in consortia with State educational agencies or local educational agencies, to achieve the purpose of this section.

''(2) GRANTS TO STATE AND LOCAL EDUCATIONAL AGENCIES.—The Secretary is authorized to award grants for a period of not more than 5 years to State educational agencies and local educational agencies, for inservice professional development programs.

''(c) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with State educational agencies or local educational agencies, that offer degree programs that prepare new bilingual education teachers for teaching in order to increase the availability of teachers to provide high-quality education to limited English proficient students.

''SEC. 3134. BILINGUAL EDUCATION CAREER LADDER PROGRAM.

''(a) PURPOSE.—The purpose of this section is—

''(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to enable the personnel to meet high professional standards, including standards for certification and licensure as bilingual education teachers or for other types of educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and State educational agencies and local educational agencies; and

''(2) to help recruit and train secondary school students as bilingual education teachers and other types of educational personnel to serve limited English proficient students.

''(b) AUTHORIZATION.—

''(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education, in consortia with State educational agencies or local educational agencies, which consortia may include community-based organizations or professional education organizations.

''(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years.

''(c) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used—

''(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants involved;

''(2) to provide assistance for stipends and costs related to tuition, fees, and books for enrolling in courses required to complete the degree, and certification or licensing requirements for bilingual education teachers; and

''(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

''(d) SPECIAL CONSIDERATION.—In awarding the grants, the Secretary shall give special consideration to an applicant proposing a program that provides for—

''(1) participant completion of teacher education programs for a baccalaureate or master's degree, and certification requirements, which programs may include effective employment placement activities;

''(2) development of teacher proficiency in English as a second language, including developing proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

''(3) coordination with the Federal TRIO programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965, programs under title I of the National and Community Service Act of 1990, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train the students to become bilingual educators; and

''(4) the applicant's contribution of additional student financial aid to participating students.

''SEC. 3135. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The Secretary may award fellowships for master's, doctoral, and post-doctoral study related to instruction of children and youth of limited English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

''(2) INFORMATION.—The Secretary shall include information on the operation of, and the number of fellowships awarded under, the fellowship program in the evaluation required under section 3138.

''(b) FELLOWSHIP REQUIREMENTS.—

''(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

''(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

''(B) repay such assistance.

''(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary determines to be reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

''(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients to find employment in the field of bilingual education.

''SEC. 3136. APPLICATION.

''(a) IN GENERAL.—

''(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

''(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited English proficiency to determine such schools' need for, and the design of, the program for which funds are sought.

''(3) SPECIAL RULE.—

''(A) TRAINING PRACTICUM.—An eligible entity who proposes to conduct a master's- or doctoral-level program with funds received under this subpart shall submit an application under this section that contains an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited English proficiency.

''(B) WAIVER.—A recipient of a grant under this subpart for a program may waive the requirement that a participant in the program participate in the training practicum, for a degree candidate with significant experience in a local school program serving children and youth of limited English proficiency.

''(4) STATE EDUCATIONAL AGENCY.—An eligible entity that submits an application under this section, with the exception of a school funded by the Bureau of Indian Affairs, shall submit a copy of the application to the appropriate State educational agency.

''(b) STATE REVIEW AND COMMENTS.—

''(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of such application, shall review the application and transmit such application to the Secretary.

''(2) COMMENTS.—

''(A) SUBMISSION OF COMMENTS.—Regarding applications submitted under this subpart, the State educational agency shall—

''(i) submit to the Secretary written comments regarding all such applications; and

''(ii) submit to each eligible entity the comments that pertain to such entity.

''(B) SUBJECT.—For purposes of this subpart, comments shall address—

''(i) how the activities to be carried out under the award will further the academic achievement and English proficiency of limited English proficient students served under the award; and

''(ii) how the application is consistent with the State plan required under section 1111.

''(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

''(d) COMMENT CONSIDERATION.—In making awards under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

''(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement specified in subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 3124, particularly such agency's ability to carry out data collection efforts, and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

''(f) SPECIAL RULE.—

''(1) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this subpart.

''(2) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience concerning the programs and activities authorized under this subpart and are otherwise qualified.

''SEC. 3137. STIPENDS.

''The Secretary shall provide, for persons participating in training programs under this subpart, for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate.

''SEC. 3138. PROGRAM EVALUATIONS.

''Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report containing the evaluation. Such report shall include information on—

''(1) the number of participants served through the program, the number of participants who completed program requirements, and the number of participants who took positions in an instructional setting with limited English proficient students;

''(2) the effectiveness of the program in imparting the professional skills necessary for participants to achieve the objectives of the program; and

''(3) the teaching effectiveness of graduates of the program or other participants who have completed the program.

''SEC. 3139. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.

''Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

''PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

''SEC. 3201. SHORT TITLE.

''This part may be cited as the 'Foreign Language Assistance Act of 1994'.

''SEC. 3202. PROGRAM AUTHORIZED.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary school and secondary school students.

''(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of 3 years.

''(b) REQUIREMENTS.—

''(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

''(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

''(A) show the promise of being continued beyond the grant period;

''(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

''(C) may include a professional development component.

''(c) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

''(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

''(3) SPECIAL RULE.—Not less than ¾ of the funds appropriated under section 3205 shall be used for the expansion of foreign language learning in the elementary grades.

''(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 3205 to evaluate the efficacy of programs under this part.

''SEC. 3203. APPLICATIONS.

''(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

''(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

''(1) include intensive summer foreign language programs for professional development;

''(2) link non-native English speakers in the community with the schools in order to promote two-way language learning;

''(3) promote the sequential study of a foreign language for students, beginning in elementary schools;

''(4) make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote foreign language study;

''(5) promote innovative activities such as foreign language immersion, partial foreign language immersion, or content-based instruction; and

''(6) are carried out through a consortium comprised of the agency receiving the grant and an elementary school or secondary school.

''SEC. 3204. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

''(a) INCENTIVE PAYMENTS.—From amounts appropriated under section 3205 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

''(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

''(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than 4 days per week throughout an academic year.

''SEC. 3205. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $35,000,000 for the fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 3204.

"PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

"SEC. 3301. PURPOSE.

''(a) FINDINGS.—The Congress finds that—

''(1) the education of our Nation's children and youth is 1 of the most sacred government responsibilities;

''(2) local educational agencies have struggled to fund adequately education services;

''(3) in the case of Plyler v. Doe, 457 U.S. 202 (1982), the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

''(4) immigration policy is solely a responsibility of the Federal Government.

''(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

''(1) provide high-quality instruction to immigrant children and youth; and

''(2) help such children and youth—

''(A) with their transition into American society; and

''(B) meet the same challenging State performance standards expected of all children and youth.

"SEC. 3302. STATE ADMINISTRATIVE COSTS.

''For any fiscal year, a State educational agency may reserve not more than 1.5 percent (2 percent if the State educational agency distributes funds received under this part to local educational agencies on a competitive basis) of the amount allocated to such agency under section 3304 to pay the costs of performing such agency's administrative functions under this part.

"SEC. 3303. WITHHOLDING.

''Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 3304. STATE ALLOCATIONS.

''(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 2002 through 2008 for the purpose set forth in section 3301.

''(b) ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary schools or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary schools or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

''(A) at least 500; or

''(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever is less.

''(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

''(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

''(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

''(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

''(e) RESERVATION OF FUNDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

''(A) AGENCIES WITH IMMIGRANT CHILDREN AND YOUTH.—At least ½ of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

''(B) AGENCIES WITH A SUDDEN INFLUX OF CHILDREN AND YOUTH.—Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

''(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 3307.

''(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

"SEC. 3305. STATE APPLICATIONS.

''(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

''(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

''(2) provide assurances that payments under this part will be used for purposes set forth in sections 3301 and 3307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, and other Acts as appropriate;

''(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

''(4) provide assurances that such payments, with the exception of payments reserved under section 3304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 3304(b)(1);

''(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

''(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

''(7) provide assurances—

''(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary schools or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

''(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purpose provided in this part, and a public agency shall administer such funds and property; and

''(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary school or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

''(8) provide that funds reserved under section 3304(e) be awarded on a competitive basis based on merit and need in accordance with such section; and

''(9) provide an assurance that State educational agencies and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

''(b) APPLICATION REVIEW.—

''(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

''(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

''(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

''SEC. 3306. ADMINISTRATIVE PROVISIONS.

''(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 3305 of the amount of such agency's allocation under section 3304 for the succeeding year.

''(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in nonpublic elementary schools and secondary schools, as required by section 3305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

''SEC. 3307. USES OF FUNDS.

''(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

''(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

''(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

''(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

''(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

''(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

''(6) such other activities, related to the purpose of this part, as the Secretary may authorize.

''(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with 1 or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

''(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

''(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''SEC. 3308. REPORTS.

''(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every 2 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

''(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 2 years, a report to the appropriate committees of the Congress concerning programs assisted under this part.

''SEC. 3309. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART D—STATE AND LOCAL GRANTS FOR LANGUAGE MINORITY STUDENTS

''SEC. 3321. POLICY AND PURPOSE.

''(a) POLICY.—It is the policy of the United States that, in order to ensure equal educational opportunity for all children and youth, and to promote educational excellence, the Federal Government should—

''(1) assist States and, through the States, local educational agencies and schools to build their capacity to establish, implement, and sustain programs of instruction and English language development for limited English proficient students;

''(2) hold States and, through the States, local educational agencies and schools accountable for increases in English proficiency and core content knowledge among limited English proficient students; and

''(3) promote parental and community participation in programs for limited English proficient students.

''(b) PURPOSES.—The purposes of this part are—

''(1) to assist all limited English proficient students, including recent immigrant students, to attain English proficiency as quickly and as effectively as possible;

''(2) to assist all limited English proficient students, including recent immigrant students, to achieve at high levels in the core academic subjects so that those students can meet the same challenging State content and student performance standards as all students are expected to meet, as required by section 1111(b)(1); and

''(3) to provide the assistance described in paragraphs (1) and (2) by—

''(A) streamlining language instruction educational programs into a program carried out through performance-based grants for State and local educational agencies to help limited English proficient students, including recent immigrant students, develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(B) requiring States and, through the States, local educational agencies and schools to—

''(i) demonstrate improvements in the English proficiency of limited English proficient students each fiscal year; and

''(ii) make adequate yearly progress with limited English proficient students, including recent immigrant students, as described in section 1111(b)(2); and

''(C) providing State educational agencies and local educational agencies with the flexibility to implement the instructional programs, tied to scientifically based research, that the agencies believe to be the most effective for teaching English.

''SEC. 3322. DEFINITIONS.

''Except as otherwise provided, in this part:

''(1) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 2102.

''(2) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

''(A) are aged 3 through 21;

''(B) were not born in any State; and

''(C) have not been attending 1 or more schools in any 1 or more States for more than 3 full academic years.

''(3) LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM.—The term 'language instruction educational program' means an instructional course—

''(A) in which a limited English proficient student is placed for the purpose of developing proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1); and

''(B) which may make instructional use of both English and a student's native language to develop English proficiency as quickly and as effectively as possible, and may include the participation of English proficient students if such course is designed to enable all participating students to become proficient in English and a second language.

''(4) LIMITED ENGLISH PROFICIENT STUDENT.—The term 'limited English proficient student' means an individual—

''(A) who is aged 3 through 21;

''(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

''(C)(i) who was not born in the United States or whose native language is a language other than English;

''(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

''(II) who comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

''(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

''(D) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

''(i) the ability to meet the State's proficient level of performance on State assessments described in section 1111(b)(3);

''(ii) the opportunity to learn successfully in classrooms where the language of instruction is English; or

''(iii) the opportunity to participate fully in society.

''(5) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' includes a consortium of such agencies.

''(6) NATIVE LANGUAGE.—The term 'native language', used with reference to a limited English proficient student, means the language normally used by the parents of the student.

''(7) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research', used with respect to an activity or program authorized under this part, means an activity or program based on specific strategies and implementation of such strategies that, based on sound educational theory, research, and an evaluation (including a comparison of program characteristics), are effective in improving student achievement and performance and other program objectives.

''(8) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency' means a local educational agency in a State that does not participate in a program under this part for a fiscal year.

''(9) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

''SEC. 3323. PROGRAM AUTHORIZED.

''(a) GRANTS AUTHORIZED.—The Secretary shall award grants, from allotments under subsection (b), to each State having a State plan approved under section 3325(c), to enable the State to help limited English proficient students become proficient in English.

''(b) RESERVATIONS AND ALLOTMENTS.—

''(1) RESERVATIONS.—From the amount appropriated under 3003(b) to carry out this part for each fiscal year, the Secretary shall reserve—

''(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs;

''(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part as determined by the Secretary, for activities, approved by the Secretary, consistent with this part;

''(C) ½ of 1 percent of such amount for payments to the Commonwealth of Puerto Rico, for activities, approved by the Secretary, consistent with this part;

''(D) 6 percent of such amount to carry out national activities under section 3332; and

''(E) such sums as may be necessary to make continuation awards under paragraph (4).

''(2) STATE ALLOTMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), from the amount appropriated under 3003(b) for any fiscal year that remains after making reservations under paragraph (1), the Secretary shall allot to each State having a State plan approved under section 3325(c)—

''(i) an amount that bears the same relationship to 67 percent of the remainder as the number of limited English proficient students in the State bears to the number of such students in all States; and

''(ii) an amount that bears the same relationship to 33 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

''(B) MINIMUM ALLOTMENTS.—No State shall receive an allotment under this paragraph that is less than ½ of 1 percent of the amount available for allotments under this paragraph.

''(3) DATA.—For purposes of paragraph (2), for the purpose of determining the number of limited English proficient students in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such students, which may include—

''(A) data available from the Bureau of the Census; or

''(B) data submitted to the Secretary by the States.

''(4) CONTINUATION AWARDS.—

''(A) IN GENERAL.—Before making allotments to States under paragraph (2) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(E) to make continuation awards to recipients who received grants or fellowships for the fiscal year before the first fiscal year described in section 3003(b) under—

''(i) subparts 1 and 3 of part A of title VII (as in effect on the day before the effective date of the Better Education for Students and Teachers Act); or

''(ii) subparts 1 and 3 of part A.

''(B) USE OF FUNDS.—The Secretary shall make the grants in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

''(c) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—

''(1) NONPARTICIPATING STATE.—If a State educational agency chooses not to participate in a program under this part for a fiscal year, or fails to submit an approvable application under section 3325 for a fiscal year, a specially qualified agency in such State desiring a grant under this part for the fiscal year shall apply directly to the Secretary to receive a grant under this subsection.

''(2) DIRECT AWARDS.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under subsection (b)(2) directly to specially qualified agencies in the State desiring a grant under this part and having an application approved under section 3325(c).

''(3) ADMINISTRATIVE FUNDS.—A specially qualified agency that receives a direct grant under this subsection may use not more than 1 percent of the grant funds for a fiscal year for the administrative costs of carrying out this part.

''(d) REALLOTMENT.—Whenever the Secretary determines that any amount of a payment made to a State or specially qualified agency under this part for a fiscal year will not be used by the State or agency for the purpose for which the payment was made, the Secretary shall, in accordance with such rules as the Secretary determines to be appropriate, make such amount available to other States or specially qualified agencies for carrying out that purpose.

''SEC. 3324. WITHIN-STATE ALLOCATIONS.

''(a) GRANT AWARDS.—Each State educational agency receiving a grant under this part for a fiscal year shall use a portion equal to at least 95 percent of the agency's allotment under section 3323(b)(2)—

''(1) to award grants, from allocations under subsection (b), to local educational agencies in the State to carry out the activities described in section 3327(b); and

''(2) to make grants under subsection (c) to local educational agencies in the State that are described in that subsection to carry out the activities described in section 3327(c).

''(b) ALLOCATION FORMULA.—

''(1) IN GENERAL.—After making the reservations under subsection (c), each State educational agency receiving a grant under section 3323(b)(2) shall award grants for a fiscal year by allocating to each local educational agency in the State having a plan approved under section 3326 an amount that bears the same relationship to the portion described in subsection (a)(1) and remaining after the reservations as the population of limited English proficient students in schools served by the local educational agency bears to the population of limited English proficient students in schools served by all local educational agencies in the State.

''(2) AMOUNT OF GRANTS.—A State shall not award a grant from an allocation made under this subsection in an amount of less than $10,000.

''(c) RESERVATIONS.—

''(1) GRANTS TO LOCAL EDUCATIONAL AGENCIES THAT EXPERIENCE SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—

''(A) IN GENERAL.—A State educational agency receiving a grant under this part for a fiscal year shall reserve a portion equal to not more than 15 percent of the agency's allotment under section 3323(b)(2) to award grants to local educational agencies in the State that experience a substantial increase in the number of immigrant children and youth enrolled in public elementary schools and secondary schools under the jurisdiction of the agencies.

''(B) SUBSTANTIAL INCREASE.—For the purpose of this paragraph, the term 'substantial increase', used with respect to the number of immigrant children and youth enrolled in schools for a fiscal year, means—

''(i) an increase of not less than 20 percent, or of not fewer than 50 individuals, in the number of such children and youth so enrolled, relative to the preceding year; or

''(ii) an increase of not less than 20 percent in such number, relative to the preceding year, in the case of a local educational agency that has limited or no experience in serving limited English proficient students.

''(2) STATE ACTIVITIES.—Each State educational agency receiving a grant under this part may reserve not more than 5 percent of the agency's allotment under section 3323(b)(2) to carry out State activities described in the State plan submitted under section 3325.

''(3) ADMINISTRATIVE EXPENSES.—From the amount reserved under paragraph (2), a State educational agency may use not more than 2 percent for the planning costs and administrative costs of carrying out the State activities described in the State plan and providing grants to local educational agencies.

''SEC. 3325. STATE AND SPECIALLY QUALIFIED AGENCY PLANS.

''(a) PLAN REQUIRED.—Each State educational agency and specially qualified agency desiring a grant under this part shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(b) CONTENTS.—Each plan submitted under subsection (a) shall—

''(1) describe how the State or specially qualified agency will establish standards and benchmarks for English language proficiency that are derived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the State content and student performance standards described in section 1111(b)(1);

''(2) contain an assurance that the—

''(A) State educational agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and second language acquisition specialists, in setting the performance objectives; or

''(B) specially qualified agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and second language acquisition specialists, in setting the performance objectives described in section 3329;

''(3) describe how—

''(A) in the case of a State educational agency, the State educational agency will hold local educational agencies and elementary schools and secondary schools accountable for—

''(i) meeting all performance objectives described in section 3329;

''(ii) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

''(iii) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this part develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1); and

''(B) in the case of a specially qualified agency, the agency will hold elementary schools and secondary schools accountable for—

''(i) meeting all performance objectives described in section 3329;

''(ii) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

''(iii) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this part develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(4) in the case of a specially qualified agency, describe the activities for which assistance is sought, and how the activities will increase the effectiveness with which students develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(5) in the case of a State educational agency, describe how local educational agencies in the State will be given the flexibility to teach limited English proficient students—

''(A) using a language instruction curriculum that is tied to scientifically based research and has been demonstrated to be effective; and

''(B) in the manner the local educational agencies determine to be the most effective; and

''(6) describe how—

''(A) in the case of a State educational agency, the State educational agency will, if requested—

''(i) provide technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of identifying and implementing language instruction educational programs and curricula that are tied to scientifically based research;

''(ii) provide technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of helping limited English proficient students meet the same challenging State content standards and challenging State student performance standards as all students are expected to meet;

''(iii) provide technical assistance to local educational agencies and elementary schools and secondary schools to identify or develop and implement measures of English language proficiency; and

''(iv) provide technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of promoting parental and community participation in programs that serve limited English proficient students; and

''(B) in the case of a specially qualified agency, the specially qualified agency will—

''(i) provide technical assistance to elementary schools and secondary schools served by the specially qualified agency for the purposes of identifying and implementing programs and curricula that are tied to scientifically based research; and

''(ii) provide technical assistance to elementary schools and secondary schools served by the specially qualified agency for the purposes described in clauses (ii), (iii), and (iv) of subparagraph (A).

''(c) APPROVAL.—The Secretary, after using a peer review process, shall approve a State plan or a specially qualified agency plan if the plan meets the requirements of this section, and holds reasonable promise of achieving the purposes described in section 3321(b).

''(d) DURATION OF THE PLAN.—

''(1) IN GENERAL.—Each State plan or specially qualified agency plan shall—

''(A) remain in effect for the duration of the State educational agency's or specially qualified agency's participation under this part; and

''(B) be periodically reviewed and revised by the State educational agency or specially qualified agency, as necessary, to reflect changes to the State's or specially qualified agency's strategies and programs carried out under this part.

''(2) ADDITIONAL INFORMATION.—

''(A) SIGNIFICANT CHANGES.—If the State educational agency or specially qualified agency makes significant changes to the plan, such as the adoption of new performance objectives or assessment measures, the State educational agency or specially qualified agency shall submit information regarding the significant changes to the Secretary.

''(B) APPROVAL.—The Secretary shall approve such changes to an approved plan, unless the Secretary determines that the changes will not result in the State or specially qualified agency meeting the requirements, or fulfilling the purposes, of this part.

''(e) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 5502.

''(f) SECRETARY ASSISTANCE.—The Secretary shall provide technical assistance, if requested, in the development of English language development standards and English language proficiency assessments.

''SEC. 3326. LOCAL PLANS.

''(a) PLAN REQUIRED.—Each local educational agency desiring a grant from the State educational agency under section 3324 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

''(b) CONTENTS.—Each plan submitted under subsection (a) shall—

''(1) describe how the local educational agency will use the grant funds to meet all performance objectives described in section 3329;

''(2) describe how the local educational agency will hold elementary schools and secondary schools accountable for—

''(A) meeting the performance objectives;

''(B) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

''(C) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this part develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(3) describe how the local educational agency will promote parental and community participation in programs for limited English proficient students;

''(4) contain an assurance that the local educational agency consulted with teachers (including second language acquisition specialists), school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing the local educational agency plan;

''(5) describe how the local educational agency will use the disaggregated results of the student assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency under this part and under title I to determine whether the schools are making the adequate yearly progress necessary to ensure that limited English proficient students attending the schools will meet the State's proficient level of performance on the State assessment described in section 1111(b)(3) within 10 years after the date of enactment of the Better Education for Students and Teachers Act; and

''(6) describe how language instruction educational programs will ensure that limited English proficient students being served by the programs develop English language proficiency as quickly and as effectively as possible.

''SEC. 3327. USES OF FUNDS.

''(a) ADMINISTRATIVE EXPENSES.—Each local educational agency receiving grant funds under section 3324(b) for a fiscal year may use, from those grant funds, not more than 1 percent of the grant funds the agency receives under section 3324 for the fiscal year for the cost of administering this part.

''(b) ACTIVITIES.—Each local educational agency receiving grant funds under section 3324(b)—

''(1) shall use the grant funds that are not used under subsection (a)—

''(A) to increase limited English proficient students' proficiency in English by providing high-quality language instruction educational programs that are—

''(i) tied to scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency; and

''(ii) tied to scientifically based research demonstrating the effectiveness of the programs in increasing student performance in the core academic subjects; and

''(B) to provide high-quality professional development activities for teachers of limited English proficient students, including teachers in classroom settings that are not the settings of language instruction educational programs, that are—

''(i) designed to enhance the ability of the teachers to understand and use curricula, assessment measures, and instructional strategies for limited English proficient students;

''(ii) tied to scientifically based research demonstrating the effectiveness of those activities in increasing students' English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of those teachers; and

''(iii) of sufficient intensity and duration (not to include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this clause shall not apply to an activity that is 1 component described in a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and the local educational agency; and

''(2) may use the grant funds that are not used under subsection (a) to provide parental

and community participation programs that are designed to improve language instruction educational programs for limited English proficient students.

''(c) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—Each local educational agency receiving grant funds under section 3324(c)(1) shall use the grant funds to pay for activities that provide enhanced instructional opportunities for such children and youth, which may include—

''(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

''(2) payment of salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

''(3) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

''(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with the grant involved; and

''(5) basic instructional services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition, or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services.

''(d) SUPPLEMENT NOT SUPPLANT.—Funds appropriated to carry out this part shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for eligible individuals.

''SEC. 3328. PROGRAM REQUIREMENTS.

''(a) PROHIBITION.—In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient students.

''(b) TEACHER ENGLISH FLUENCY.—Each local educational agency receiving grant funds under section 3324 shall certify to the State educational agency that all teachers in any language instruction educational program for limited English proficient students funded under this part are fluent in English and any other language used for instruction.

''SEC. 3329. PERFORMANCE OBJECTIVES.

''(a) IN GENERAL.—Each State educational agency or specially qualified agency receiving a grant under this part shall develop annual measurable performance objectives that are research-based, and age- and developmentally appropriate, with respect to helping limited English proficient students develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1). For each annual measurable performance objective, the agency shall specify an incremental percentage increase for the objective to be attained for each of the fiscal years (after the first fiscal year) for which the agency receives a grant under this part, relative to the preceding fiscal year, including increases in the number of limited English proficient students demonstrating an increase in performance on annual assessments.

''(b) ACCOUNTABILITY.—

''(1) FOR STATES.—Each State educational agency receiving a grant under this part shall be held accountable for meeting the annual measurable performance objectives under this part and the adequate yearly progress levels for limited English proficient students under section 1111(b)(2)(B). Any State educational agency that fails to meet the annual performance objectives shall be subject to sanctions under section 6202.

''(2) FOR SPECIALLY QUALIFIED AGENCIES.—Each specially qualified agency receiving a grant under this part shall be held accountable for meeting annual measurable performance objectives, be held accountable for making yearly progress, and be subject to sanctions, in a manner that the Secretary determines is appropriate and comparable to the manner used for State educational agencies specified in paragraph (1).

''SEC. 3330. REGULATIONS AND NOTIFICATION.

''(a) REGULATION RULE.—In developing regulations under this part, the Secretary shall consult with State educational agencies, local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in the education of limited English proficient students.

''(b) PARENTAL NOTIFICATION.—

''(1) IN GENERAL.—Each local educational agency participating in a language instruction educational program under this part shall notify parents of a student participating in the program of—

''(A) the student's level of English proficiency, how that level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age- and grade-appropriate academic attainment, grade promotion, and graduation;

''(B)(i) the programs that are available to meet the student's educational strengths and needs, and how those programs differ in content and instructional goals from other language instruction educational programs that serve limited English proficient students; and

''(ii) in the case of a student with a disability who participates in the language instruction educational program, how the program meets the objectives of the individualized education program of the student;

''(C)(i) the instructional goals of the language instruction educational program in which the student participates, and how the program will specifically help the limited English proficient student learn English and meet age-appropriate standards for grade promotion and graduation;

''(ii) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

''(iii) the reasons the student was identified as being in need of a language instruction educational program; and

''(D) how parents can participate and be involved in the language instruction educational program in order to help their children achieve.

''(2) OPTION TO DECLINE.—

''(A) IN GENERAL.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of the student in a language instruction educational program, and shall be given an opportunity to decline that enrollment if the parent so chooses.

''(B) OBLIGATIONS.—A local educational agency shall not be relieved of any of the agency's obligations under title VI of the Civil Rights Act of 1964 because a parent chooses not to enroll a student in a language instruction educational program.

''(3) RECEIPT OF INFORMATION.—A parent described in paragraph (1) shall receive the information required by this subsection in a manner and form understandable to the parent including, if necessary and to the extent feasible, receiving the information in the language normally used by the parent. The parent shall receive—

''(A) timely information about programs funded under this part; and

''(B) notice of opportunities, if applicable, for regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

''(4) SPECIAL RULE.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.

''(5) LIMITATIONS ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State's, local educational agency's, elementary school's, or secondary school's specific challenging English language development standards or assessments, curriculum, or program of instruction, as a condition of eligibility to receive grant funds under this part.

''SEC. 3331. ADMINISTRATION.

''(a) STATE AND LOCAL PROGRAMS.—This part shall be in effect only in a fiscal year described in section 3003(b).

''(b) OTHER LAW.—In such a fiscal year—

''(1) parts A, C, D (other than section 3404) and E shall not be in effect; and

''(2) section 3404 shall apply only with respect to grants provided and activities carried out under part B and this part.

''(c) REFERENCES.—In such a fiscal year, references in Federal law to part A shall be considered to be references to this part.

''SEC. 3332. NATIONAL LEADERSHIP ACTIVITIES TO ENSURE EDUCATIONAL EXCELLENCE FOR LIMITED ENGLISH PROFICIENT STUDENTS.

''(a) IN GENERAL.—The Secretary shall use funds made available under section 3323(b)(1)(D) to carry out each of the activities described in subsections (b) and (c).

''(b) NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.—The Secretary shall award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for limited English proficient students and assist educational personnel working with such students to meet high professional standards, including standards for certification and licensure as bilingual education teachers. Grants awarded under this subsection may be used—

''(1) for inservice professional development programs that serve teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, a language instruction educational program;

''(2) for preservice professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

''(3) for the development of curricula appropriate to the needs of the consortia participants involved; and

''(4) for financial assistance and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, and meet certification or licensing requirements for bilingual education teachers.

''(c) NATIONAL CLEARINGHOUSE.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information

about second language acquisition programs for limited English proficient students, and related programs. The National Clearinghouse shall—

''(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Office of Educational Research and Improvement;

''(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

''(3) develop a database management and monitoring system for improving the operation and effectiveness of federally funded language instruction educational programs;

''(4) disseminate information on best practices related to—

''(A) the development of accountability systems that monitor the academic progress of limited English proficient students in language instruction educational programs; and

''(B) the development of standards and English language proficiency assessments for language instruction educational programs;

''(5) develop, maintain, and disseminate a listing, by geographical area, of education professionals, parents, teachers, administrators, community members, and others, who are native speakers of languages other than English, for use as a resource by local educational agencies and schools in the development and implementation of language instruction educational programs; and

''(6) publish, on an annual basis, a list of grant recipients under this section.

''PART E—ADMINISTRATION

''SEC. 3401. RELEASE TIME.

''The Secretary shall allow entities carrying out professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

''SEC. 3402. EDUCATION TECHNOLOGY.

''Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

''SEC. 3403. NOTIFICATION.

''The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within 3 working days of the date an award under part A is made to an eligible entity within the State.

''SEC. 3404. CONTINUED ELIGIBILITY.

''Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

''SEC. 3405. COORDINATION AND REPORTING REQUIREMENTS.

''(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under this title and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

''(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

''(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

''(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Health, Education, Labor, and Pensions of the Senate and to the Committee on Education and the Workforce of the House of Representatives a report on—

''(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

''(2) a critical synthesis of data reported by the States pursuant to section 3124;

''(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding 5 fiscal years;

''(4) the major findings of research carried out under this title; and

''(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

''PART F—GENERAL PROVISIONS

''SEC. 3501. DEFINITIONS.

''Except as otherwise provided, in this title:

''(1) BILINGUAL EDUCATION PROGRAM.—The term 'bilingual education program' means an educational program for limited English proficient students that—

''(A) makes instructional use of both English and a student's native language;

''(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards;

''(C) may also develop the native language skills of limited English proficient students, or ancestral language skills of American Indians (within the meaning of part A of title VII), Alaska Natives (as defined in section 7306), Native Hawaiians (as defined in section 7207), and native residents of the outlying areas; and

''(D) may include the participation of English proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

''(2) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

''(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority (as such terms are defined in section 3004) that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

''(4) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled College or University Assistance Act of 1978.

''(5) DIRECTOR.—The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 209 of the Department of Education Organization Act.

''(6) FAMILY EDUCATION PROGRAM.—

''(A) IN GENERAL.—The term 'family education program' means a bilingual education or special alternative instructional program that—

''(i) is designed—

''(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

''(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

''(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

''(iii) gives preference to participation by parents and immediate family members of children attending school.

''(B) INSTRUCTION FOR HIGHER EDUCATION AND EMPLOYMENT.—Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

''(7) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

''(A) are aged 3 through 21;

''(B) were not born in any State; and

''(C) have not been attending 1 or more schools in any 1 or more States for more than 3 full academic years.

''(8) LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.—The terms 'limited English proficiency' and 'limited English proficient', when used with reference to an individual, mean an individual—

''(A)(i) who was not born in the United States, or whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

''(ii) who is a Native American or Alaska Native, or is a native resident of the outlying areas, and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

''(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

''(B) who has sufficient difficulty speaking, reading, writing, or understanding the

English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in society.

''(9) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the meanings given such terms in section 103 of the Native American Languages Act.

''(10) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs and with not less than 5 years successful experience in providing educational services in traditional Native American languages.

''(11) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

''(12) OFFICE.—The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

''(13) OTHER PROGRAMS FOR PERSONS OF LIMITED ENGLISH PROFICIENCY.—The term 'other programs for persons of limited English proficiency' means any other programs administered by the Secretary that serve persons of limited English proficiency.

''(14) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

''(15) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—The term 'special alternative instructional program' means an educational program for limited English proficient students that—

''(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

''(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards; and

''(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

''SEC. 3502. REGULATIONS AND NOTIFICATION.

''(a) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

''(b) PARENTAL NOTIFICATION.—

''(1) IN GENERAL.—Parents of children and youth participating in programs assisted under part A shall be informed of—

''(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement, and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

''(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

''(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade promotion and graduation, including—

''(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

''(ii) the reasons for the selection of their child as being in need of bilingual education.

''(2) OPTION TO DECLINE.—

''(A) IN GENERAL.—Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

''(B) CIVIL RIGHTS OBLIGATIONS.—A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in programs carried out under part A.

''(3) RECEIPT OF INFORMATION.—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

''(A) timely information about projects funded under part A; and

''(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

''(4) SPECIAL RULE.—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.''.

TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

SEC. 401. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Title IV (20 U.S.C. 7101 et seq.) is amended to read as follows:

''TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

''PART A—STATE GRANTS

''SEC. 4001. SHORT TITLE.

''This part may be cited as the 'Safe and Drug-Free Schools and Communities Act of 1994'.

''SEC. 4002. FINDINGS.

''Congress makes the following findings:

''(1) Every student should attend a school in a drug- and violence-free learning environment.

''(2) The widespread illegal use of alcohol and drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

''(3) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety, youth development, positive school outcomes, and to reduce the demand for and illegal use of alcohol, tobacco and drugs throughout the Nation. Schools, local organizations, parents, students, and communities throughout the Nation have a special responsibility to work together to combat the continuing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

''(4) Drug and violence prevention programs are most effective when implemented within a scientifically based research, drug and violence prevention framework of proven effectiveness.

''(5) Research clearly shows that community contexts contribute to substance abuse and violence.

''(6) Substance abuse and violence are intricately related and must be dealt with in a holistic manner.

''(7) Research has documented that parental behavior and environment directly influence a child's inclination to use alcohol, tobacco or drugs.

''SEC. 4003. PURPOSE.

''The purpose of this part is to support programs that prevent violence in and around schools and prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, school, and community efforts and resources, through the provision of Federal assistance to—

''(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools for the development and implementation of policies that set clear and appropriate standards regarding the illegal use of alcohol, tobacco and drugs, and for violent behavior (including intermediate and junior high schools);

''(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention including community mobilization, early intervention, rehabilitation referral, and education;

''(3) States for development, training, technical assistance, and coordination activities; and

''(4) public and private nonprofit organizations to provide technical assistance, conduct training, demonstrations, and evaluation, and to provide supplementary services and community mobilization activities for the prevention of drug use and violence among students and youth.

''SEC. 4004. FUNDING.

''There are authorized to be appropriated—

''(1) $700,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, for State grants under subpart 1;

''(2) $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, for national programs under subpart 2;

''(3) $75,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, for the National Coordinator Initiative under section 4122; and

''(4) $5,000,000 for each of fiscal years 2002 through 2004 to carry out section 4125.

''Subpart 1—State Grants for Drug and Violence Prevention Programs

''SEC. 4111. RESERVATIONS AND ALLOTMENTS.

''(a) RESERVATIONS.—From the amount made available under section 4004(1) to carry

out this subpart for each fiscal year, the Secretary—

''(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

''(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

''(3) may reserve not more than $2,000,000 for the national impact evaluation required by section 4117(a); and

''(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

''(b) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

''(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

''(B) one-half of such remainder according to the ratio between the amount each State received under section 1124A for the preceding year and the sum of such amounts received by all the States.

''(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

''(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

''(4) DEFINITIONS.—In this subsection:

''(A) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(B) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' includes educational service agencies and consortia of such agencies.

''(c) LIMITATION.—Amounts appropriated under section 4004(2) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 4004(1) for the fiscal year involved are at least 10 percent greater that the amounts appropriated under such section 4004(1) for the previous fiscal year.

''SEC. 4112. STATE APPLICATIONS.

''(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

''(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer to provide safe, orderly, and drug-free schools and communities;

''(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities and the prevalence of risk or protective factors, buffers or assets or other scientifically based research variables in the school and community;

''(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed together, with each such officer or State representative, in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

''(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a);

''(5) contains assurances that the State education agency and the Governor will develop their respective applications in consultation with an advisory council that includes, to the extent practicable, representatives from school districts, businesses, parents, youth, teachers, administrators, pupil services personnel, private schools, appropriate State agencies, community-based organizations, the medical profession, law enforcement, the faith-based community and other groups with interest and expertise in alcohol, tobacco, drug, and violence prevention;

''(6) contains assurances that the State education agency and the Governor involve the representatives described in paragraph (5), on an ongoing basis, to review program evaluations and other relevant material and make recommendations to the State education agency and the Governor on how to improve their respective alcohol, tobacco, drug, and violence prevention programs;

''(7) contains a list of the State's results-based performance measures for drug and violence prevention, that shall—

''(A) be focused on student behavior and attitudes and be derived from the needs assessment;

''(B) include targets and due dates for the attainment of such performance measures; and

''(C) include a description of the procedures that the State will use to inform local educational agencies of such performance measures for assessing and publicly reporting progress toward meeting such measures or revising them as needed; and

''(8) includes any other information the Secretary may require.

''(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4113(a) by the State educational agency that includes—

''(1) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116;

''(2) a description of how the State educational agency will use funds under section 4113(b), including how the agency will receive input from parents regarding the use of such funds;

''(3) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies; and

''(4) a description of the procedures the State educational agency will use to review applications from and allocate funding to local educational agencies under section 4115 and how such review will receive input from parents.

''(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes, with respect to each activity to be carried out by the State—

''(1) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

''(2) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

''(3) a description of how the chief executive officer will award funds under section 4114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

''(4) a description of the special outreach activities that will be carried out to maximize the participation of community-based nonprofit organizations of demonstrated effectiveness which provide services in low-income communities;

''(5) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning and community mobilization activities; and

''(6) a specific description of how input from parents will be sought regarding the use of funds under section 4114(a).

''(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

''(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 2002 a 1-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 2002 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

''SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.

''(a) USE OF FUNDS.—An amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

''(b) STATE LEVEL PROGRAMS.—

''(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

''(A) voluntary training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

''(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date drug and violence prevention curriculum materials (including videotapes, software, and

other technology-based learning resources), for consideration by local educational agencies;

''(C) making available to local educational agencies cost effective scientifically based research programs for youth violence and drug abuse prevention;

''(D) demonstration projects in drug and violence prevention, including service-learning projects;

''(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

''(F) training, technical assistance and demonstration projects to address the impact of family violence on school violence and substance abuse;

''(G) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

''(H) the evaluation of activities carried out within the State under this part.

''(2) SPECIAL RULE.—A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

''(c) STATE ADMINISTRATION.—

''(1) IN GENERAL.—A State educational agency may use not more than 5 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

''(2) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM.—In carrying out its responsibilities under this part, a State shall implement a uniform management information and reporting system that includes information on the types of curricula, programs and services provided by the State, Governor, local education agencies, and other recipients of funds under this title.

''(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

''(1) IN GENERAL.—A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

''(2) DISTRIBUTION.—A State educational agency shall distribute amounts under paragraph (1) in accordance with any one of the following subparagraphs:

''(A) ENROLLMENT AND COMBINATION APPROACH.—Of the amount distributed under paragraph (1), a State educational agency shall distribute—

''(i) at least 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

''(ii) not to exceed 30 percent of any amounts remaining after amounts are distributed under clause (i)—

''(I) to each local educational agency in an amount determined appropriate by the State educational agency; or

''(II) to local educational agencies that the State education agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

''(B) COMPETITIVE AND NEED APPROACH.—Of the amount distributed under paragraph (1), a State educational agency shall distribute—

''(i) not to exceed 70 percent of such amount to local educational agencies that the State agency determines, through a competitive process, have the greatest need for funds to carry out drug and violence prevention programs based on criteria established by the State agency and authorized under this subpart; and

''(ii) at least 30 percent of any amounts remaining after amounts are distributed under clause (i) to local educational agencies that the State agency determines have a need for additional funds to carry out the program authorized under this subpart.

''(3) CONSIDERATION OF OBJECTIVE DATA.—For purposes of paragraph (2), in determining which local educational agencies have the greatest need for funds, the State educational agency shall consider objective data which may include—

''(A) high or increasing rates of alcohol or drug use among youth;

''(B) high or increasing rates of victimization of youth by violence and crime;

''(C) high or increasing rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

''(D) the extent of illegal gang activity;

''(E) high or increasing incidence of violence associated with prejudice and intolerance;

''(F) high or increasing rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

''(G) high or increasing rates of referrals of youths to juvenile court;

''(H) high or increasing rates of expulsions and suspensions of students from schools;

''(I) high or increasing rates of reported cases of child abuse and domestic violence; and

''(J) high or increasing rates of drug related emergencies or deaths.

''(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

''(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—

''(1) RETURN.—Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

''(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

''(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

''(2) REALLOCATION.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

''(A) an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

''(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

''SEC. 4114. GOVERNOR'S PROGRAMS.

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 4111(b)(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

''(2) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the 20 percent described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section. The chief executive officer of a State may use amounts under this paragraph to award grants to State, county, or local law enforcement agencies, including district attorneys, in consultation with local education agencies or community-based agencies, for the purposes of carrying out drug abuse and violence prevention activities.

''(b) STATE PLAN.—Amounts shall be used under this section in accordance with a State plan submitted by the chief executive office of the State. Such State plan shall contain—

''(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools in the State (including private school students who participate in the States's drug and violence prevention programs) that is based on ongoing local assessment or evaluation activities;

''(2) an analysis, based on data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence, or protective factors, buffers or assets or other scientifically based research variables in schools and communities in the State;

''(3) a description of the scientifically based research strategies and programs, which shall be used to prevent or reduce drug use, violence, or disruptive behavior, which shall include—

''(A) a specification of the objectively measurable goals, objectives, and activities for the program;

''(B) a specification for how risk factors, if any, which have been identified will be targeted through scientifically based research programs; and

''(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through scientifically based research programs;

''(4) a specification for the method or methods by which measurements of program goals will be achieved; and

''(5) a specification for how the evaluation of the effectiveness of the prevention program will be assessed and how the results will be used to refine, improve, and strengthen the program.

''(c) PROGRAMS AUTHORIZED.—

''(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) directly for grants to or contracts with parent groups, schools, community action and job training agencies, community-based organizations, community anti-drug coalitions, law enforcement education partnerships, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (d) for—

''(A) children and youth who are not normally served by State or local educational agencies; or

''(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

''(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

''(d) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (c) shall be used to carry out the comprehensive State plan as required under section 4112(a)(1) through programs and activities such as—

''(1) disseminating information about drug and violence prevention;

''(2) the voluntary training of parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, health education (as it relates to drug and violence prevention), domestic violence and child abuse education (as it relates to drug and violence prevention), early intervention, pupil services, or rehabilitation referral;

''(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, family violence prevention, community service, service-learning, mentoring, and other appropriate services;

''(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

''(5) activities to protect students traveling to and from school;

''(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

''(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

''(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

''(9) developing and implementing activities to prevent and reduce dating violence;

''(10) developing and implementing strategies to prevent illegal gang activity;

''(11) coordinating and conducting school and community-wide violence and safety and drug abuse assessments and surveys;

''(12) service-learning projects that encourage drug- and violence-free lifestyles;

''(13) evaluating programs and activities assisted under this section;

''(14) developing and implementing community mobilization activities to undertake environmental change strategies related to substance abuse and violence; and

''(15) partnerships between local law enforcement agencies, including district attorneys, and local education agencies or community-based agencies.

''SEC. 4115. LOCAL APPLICATIONS.

''(a) APPLICATION REQUIRED.—

''(1) IN GENERAL.—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

''(2) DEVELOPMENT.—

''(A) CONSULTATION.—A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

''(B) DUTIES OF ADVISORY COUNCIL.—In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

''(i) disseminate information about scientifically based research drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

''(ii) advise the local educational agency regarding how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities;

''(iii) ensure that a mechanism is in place to enable local educational agencies to have access to up-to-date information concerning the agencies that administer related programs, projects, and activities and any changes in the law that alter the duties of the local educational agencies with respect to activities conducted under this subpart; and

''(iv) review program evaluations and other relevant material and make recommendations on an active and ongoing basis to the local educational agency on how to improve such agency's drug and violence prevention programs.

''(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

''(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

''(2) an analysis, based on data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence, or protective factors, buffers or assets or other scientifically based research variables in the school and community;

''(3) a description of the scientifically based research strategies and programs, which shall be used to prevent or reduce drug use, violence, or disruptive behavior, which shall include—

''(A) a specification of the objectively measurable goals, objectives, and activities for the program, which shall include—

''(i) reductions in the use of alcohol, tobacco, and illicit drugs and violence by youth;

''(ii) specific reductions in the prevalence of identified risk factors;

''(iii) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; or

''(iv) other scientifically based research goals, objectives, and activities that are identified as part of the application that are not otherwise covered under clauses (i) through (iii);

''(B) a specification for how risk factors, if any, which have been identified will be targeted through scientifically based research programs; and

''(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through scientifically based research programs;

''(4) a specification for the method or methods by which measurements of program goals will be achieved;

''(5) a specification for how the evaluation of the effectiveness of the prevention program will be assessed and how the results will be used to refine, improve, and strengthen the program;

''(6) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

''(A) appropriate and effective discipline policies that prohibit disorderly conduct, the possession of firearms and other weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

''(B) security procedures at school and while students are on the way to and from school;

''(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments; and

''(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

''(7) such other information and assurances as the State educational agency may reasonably require.

''(c) REVIEW OF APPLICATION.—

''(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

''(2) CONSIDERATIONS.—

''(A) IN GENERAL.—In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(6) and the extent to which the proposed plan provides a thorough assessment of the substance abuse and violence problem, uses objective data and the knowledge of a wide range of community members, develops measurable goals and objectives, and implements scientifically based research programs that have been shown to be effective and meet identified needs.

''(B) DISAPPROVAL.—A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

''SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

''(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

''(1) be designed, for all students and school employees, to—

''(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by school employees;

''(B) prevent violence and promote school safety; and

''(C) create a disciplined environment conducive to learning;

''(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart;

''(3) implement activities which shall include—

''(A) a thorough assessment of the substance abuse violence problem, using objective data and the knowledge of a wide range of community members;

''(B) the development of measurable goals and objectives;

''(C) the implementation of scientifically based research programs that have been shown to be effective and meet identified goals; and

''(D) an evaluation of program activities; and

''(4) implement prevention programming activities within the context of a scientifically based research prevention framework.

''(b) USE OF FUNDS.—A comprehensive, age-appropriate, developmentally-, and scientifically based research drug and violence prevention program carried out under this subpart may include—

''(1) drug or violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs or violence, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

''(2) programs of drug or violence prevention, health education (as it relates to drug and violence prevention), domestic violence and child abuse education (as it relates to drug and violence prevention), early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

''(A) the dissemination of information about drug or violence prevention;

''(B) the professional development or voluntary training of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

''(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

''(i) family counseling; and

''(ii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

''(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, domestic violence and child abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence, or otherwise decrease the prevalence of risk factors or increase the prevalence of protective factors, buffers, or assets in the community;

''(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

''(A) the dissemination of information about school safety and discipline;

''(B) the professional development or voluntary training of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

''(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

''(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and

''(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities and drug use;

''(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

''(6) the acquisition or hiring of school security equipment, technologies, personnel, or services such as—

''(A) metal detectors;

''(B) electronic locks;

''(C) surveillance cameras; and

''(D) other drug and violence prevention-related equipment and technologies;

''(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

''(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

''(9) other scientifically based research prevention programming that is—

''(A) effective in reducing the prevalence of alcohol, tobacco or drug use, and violence in youth;

''(B) effective in reducing the prevalence of risk factors predictive of increased alcohol, tobacco or drug use, and violence; or

''(C) effective in increasing the prevalence of protective factors, buffers, and assets predictive of decreased alcohol, tobacco or drug use and violence among youth;

''(10) the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives;

''(11) community involvement activities including community mobilization;

''(12) voluntary parental involvement and training;

''(13) the evaluation of any of the activities authorized under this subsection;

''(14) the provision of mental health counseling (by qualified counselors) to students for drug or violence related problems;

''(15) consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or inspecting a student's locker for guns, explosives, other weapons, or illegal drugs, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect; and

''(16) the conduct of a nationwide background check of each local educational agency employee (regardless of when hired) and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's or prospective employee's fitness—

''(A) to have responsibility for the safety or well-being of children;

''(B) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

''(C) to otherwise be employed at all by the local educational agency.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

''(2) SPECIAL RULE.—A local educational agency shall only use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of funds under this part by any local educational agency or school for the establishment or implementation of a school uniform policy so long as such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other scientifically based research information.

"SEC. 4117. EVALUATION AND REPORTING.

''(a) IMPACT EVALUATION.—

''(1) BIENNIAL EVALUATION.—The Secretary, in consultation with the National Advisory Committee, shall conduct an independent biennial evaluation of the impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools. The evaluation shall report on—

''(A) whether funded community and local education agency programs—

''(i) provided a thorough assessment of the substance abuse and violence problem;

''(ii) used objective data and the knowledge of a wide range of community members;

''(iii) developed measurable goals and objectives;

''(iv) implemented scientifically based research programs that have been shown to be effective and meet identified needs; and

''(v) conducted periodic program evaluations to assess progress made towards achieving program goals and objectives and whether they used evaluations to improve program goals, objectives and activities;

''(B) whether funded community and local education agency programs have been designed and implemented in a manner that specifically targets, if relevant to the program—

''(i) scientifically based research variables that are predictive of drug use or violence;

''(ii) risk factors that are predictive of an increased likelihood that young people will use drugs, alcohol or tobacco or engage in violence or drop out of school; or

''(iii) protective factors, buffers, or assets that are known to protect children and youth from exposure to risk, either by reducing the exposure to risk factors or by changing the way the young person responds to risk, and to increase the likelihood of positive youth development;

''(C) whether funded community and local education agency programs have appreciably reduced the level of drug, alcohol and tobacco use and school violence and the presence of firearms at schools; and

''(D) whether funded community and local educational agency programs have conducted effective parent involvement and voluntary training programs.

''(2) DATA COLLECTION.—The National Center for Education Statistics shall collect data to determine the incidence and prevalence of social disapproval of drug use and violence in elementary and secondary schools in the States.

''(3) BIENNIAL REPORT.—Not later than January 1, 2003, and every 2 years thereafter, the Secretary shall submit to the President and Congress a report on the findings of the evaluation conducted under paragraph (1) together with the data collected under paragraph (2) and data available from other sources on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use in elementary and secondary schools in the States. The Secretary shall include data submitted by the States pursuant to subsection (b)(2)(B).

''(b) STATE REPORT.—

''(1) IN GENERAL.—By December 1, 2002, and every 2 years thereafter, the chief executive

officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

''(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness;

''(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112; and

''(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

''(2) SPECIAL RULE.—The report required by this subsection shall be—

''(A) in the form specified by the Secretary;

''(B) based on the State's ongoing evaluation activities, and shall include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

''(C) made readily available to the public.

''(c) LOCAL EDUCATIONAL AGENCY REPORT.—

''(1) IN GENERAL.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (b), including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

''(2) AVAILABILITY.—Information under paragraph (1) shall be made readily available to the public.

''(3) PROVISION OF DOCUMENTATION.—Not later than January 1 of each year that a State is required to report under subsection (b), the Secretary shall provide to the State education agency all of the necessary documentation required for compliance with this section.

''SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS.

''(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

''(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

''Subpart 2—National Programs

''SEC. 4121. FEDERAL ACTIVITIES.

''(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the post-secondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

''(1) the development and demonstration of innovative strategies for the voluntary training of school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

''(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

''(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

''(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

''(5) program evaluations that address issues not addressed under section 4117(a);

''(6) direct services to schools and school systems afflicted with especially severe drug and violence problems or to support crisis situations and appropriate response efforts;

''(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

''(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

''(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

''(10) the implementation of innovative activities, such as community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

''(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

''(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

''(13) other activities that meet unmet national needs related to the purposes of this title.

''(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

''SEC. 4122. NATIONAL COORDINATOR PROGRAM.

''(a) IN GENERAL.—From amounts available to carry out this section under section 4004(3), the Secretary shall provide for the establishment of a National Coordinator Program under which the Secretary shall award grants to local educational agencies for the hiring of drug prevention and school safety program coordinators.

''(b) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used by local educational agencies to recruit, hire, and train individuals to serve as drug prevention and school safety program coordinators in schools with significant drug and school safety problems. Such coordinators shall be responsible for developing, conducting, and analyzing assessments of drug and crime problems at their schools, and administering the safe and drug free grant program at such schools.

''SEC. 4123. SAFE AND DRUG FREE SCHOOLS AND COMMUNITIES ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established an advisory committee to be known as the 'Safe and Drug Free Schools and Communities Advisory Committee' (referred to in this section as the 'Advisory Committee') to—

''(A) consult with the Secretary under subsection (b);

''(B) coordinate Federal school- and community-based substance abuse and violence prevention programs and reduce duplicative research or services;

''(C) develop core data sets and evaluation protocols for safe and drug free school- and community-based programs;

''(D) provide technical assistance and training for safe and drug free school- and community-based programs;

''(E) provide for the diffusion of scientifically based research safe and drug free school- and community-based programs; and

''(F) review other regulations and standards developed under this title.

''(2) COMPOSITION.—The Advisory Committee shall be composed of representatives from—

''(A) the Department of Education;

''(B) the Centers for Disease Control and Prevention;

''(C) the National Institute on Drug Abuse;

''(D) the National Institute on Alcoholism and Alcohol Abuse;

''(E) the Center for Substance Abuse Prevention;

''(F) the Center for Mental Health Services;

''(G) the Office of Juvenile Justice and Delinquency Prevention;

''(H) the Office of National Drug Control Policy; and

''(I) State and local governments, including education agencies.

''(3) CONSULTATION.—In carrying out its duties under this section, the Advisory Committee shall annually consult with interested State and local coordinators of school- and community-based substance abuse and violence prevention programs and other interested groups.

''(b) PROGRAMS.—

''(1) IN GENERAL.—From amounts made available under section 4004(2) to carry out this subpart, the Secretary, in consultation with the Advisory Committee, shall carry out scientifically based research programs to strengthen the accountability and effectiveness of the State, Governor's, and national programs under this title.

''(2) GRANTS, CONTRACTS OR COOPERATIVE AGREEMENTS.—The Secretary shall carry out paragraph (1) directly or through grants, contracts, or cooperative agreements with public and nonprofit private organizations and individuals or through agreements with other Federal agencies.

''(3) COORDINATION.—The Secretary shall coordinate programs under this section with other appropriate Federal activities.

''(4) ACTIVITIES.—Activities that may be carried out under programs funded under this section may include—

''(A) the provision of technical assistance and training, in collaboration with other Federal agencies utilizing their expertise and national and regional training systems, for Governors, State educational agencies and local educational agencies to support high quality, effective programs that—

''(i) provide a thorough assessment of the substance abuse and violence problem;

''(ii) utilize objective data and the knowledge of a wide range of community members;

''(iii) develop measurable goals and objectives; and

''(iv) implement scientifically based research activities that have been shown to be effective and that meet identified needs;

''(B) the provision of technical assistance and training to foster program accountability;

''(C) the diffusion and dissemination of best practices and programs;

''(D) the development of core data sets and evaluation tools;

''(E) program evaluations;

''(F) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act; and

''(G) other activities that meet unmet needs related to the purposes of this title and that are undertaken in consultation with the Advisory Committee.

''SEC. 4124. HATE CRIME PREVENTION.

''(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4004(2) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

''(b) USE OF FUNDS.—

''(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

''(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

''(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

''(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

''(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

''(2) IN GENERAL.—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require.

''(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

''(A) a request for funds for the purposes described in this section;

''(B) a description of the schools and communities to be served by the grants; and

''(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

''(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

''(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

''(B) a description of the program to be developed or augmented by such Federal and matching funds;

''(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

''(D) procedures for the proper and efficient administration of such program; and

''(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

''(c) AWARD OF GRANTS.—

''(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

''(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

''(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

''(d) REPORTS.—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

''SEC. 4125. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

''(a) GRANTS AUTHORIZED.—

''(1) AUTHORITY.—The Secretary is authorized to award grants and contracts to elementary schools and secondary schools that work with experts to enable the elementary schools and secondary schools—

''(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children;

''(B) to provide educational programming to students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

''(C) to provide support services for students and school personnel for the purpose of developing and strengthening effective prevention and intervention strategies with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children; and

''(D) to develop and implement school system policies regarding appropriate, safe responses identification and referral procedures for students who are experiencing or witnessing domestic violence.

''(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section—

''(A) on a competitive basis; and

''(B) in a manner that ensures that such grants and contracts are equitably distributed throughout a State among elementary schools and secondary schools located in rural, urban, and suburban areas in the State.

''(3) POLICY DISSEMINATION.—The Secretary shall disseminate to elementary schools and secondary schools any Department of Education policy guidance regarding the prevention of domestic violence and the impact of experiencing or witnessing domestic violence on children.

''(b) USES OF FUNDS.—Funds provided under this section may be used for the following purposes:

''(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or witness or experience family violence, and the impact of such violence on the students.

''(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

''(3) To develop and implement elementary school and secondary school system policies regarding appropriate, safe responses, identification and referral procedures for students who are experiencing or witnessing domestic violence and to develop and implement policies on reporting and referral procedures for these students.

''(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call, and who is an expert.

''(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships and witness domestic violence, and the impact of the violence described in this paragraph on the children.

''(6) To conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

''(c) CONFIDENTIALITY.—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to be awarded a grant or contract under this section for any fiscal year, an elementary school or secondary school, in consultation with an expert, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) describe the need for funds provided under the grant or contract and the plan for implementation of any of the activities described in subsection (b);

''(B) describe how the experts shall work in consultation and collaboration with the elementary school or secondary school;

''(C) provide measurable goals for and expected results from the use of the funds provided under the grant or contract; and

''(D) incorporate appropriate remuneration for collaborating partners.

''(e) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.

''(f) DEFINITIONS.—In this section:

''(1) DOMESTIC VIOLENCE.—The term 'domestic violence' has the meaning given that term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2)).

''(2) EXPERTS.—The term 'experts' means—

''(A) experts on domestic violence, sexual assault, and child abuse from the educational, legal, youth, mental health, substance abuse, and victim advocacy fields; and

''(B) State and local domestic violence coalitions and community-based youth organizations.

''(3) WITNESS DOMESTIC VIOLENCE.—

''(A) IN GENERAL.—The term 'witness domestic violence' means to witness—

''(i) an act of domestic violence that constitutes actual or attempted physical assault; or

''(ii) a threat or other action that places the victim in fear of domestic violence.

''(B) WITNESS.—In subparagraph (A), the term 'witness' means to—

''(i) directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

''(ii) be within earshot of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

''Subpart 3—General Provisions

''SEC. 4131. DEFINITIONS.

''In this part:

''(1) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

''(2) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

''(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

''(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

''(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

''(3) HATE CRIME.—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

''(4) 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 which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(5) OBJECTIVELY MEASURABLE GOALS.—The term 'objectively measurable goals' means prevention programming goals defined through use of quantitative epidemiological data measuring the prevalence of alcohol, tobacco, and other drug use, violence, and the prevalence of risk and protective factors predictive of these behaviors, collected through a variety of methods and sources known to provide high quality data.

''(6) PROTECTIVE FACTOR, BUFFER, OR ASSET.—The terms 'protective factor', 'buffer', and 'asset' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illicit drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

''(7) RISK FACTOR.—The term 'risk factor' means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illicit drug use, as well as violent behavior, by youth in the school and community.

''(8) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

''(9) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, administrators, counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

''SEC. 4132. MATERIALS.

''(a) 'ILLEGAL AND HARMFUL' MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is illegal and harmful.

''(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

''SEC. 4133. PROHIBITED USES OF FUNDS.

''No funds under this part may be used for—

''(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

''(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.

''SEC. 4134. QUALITY RATING.

''(a) IN GENERAL.—The chief executive officer of each State, or in the case of a State in which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for education activities, such individual, entity, or agency, is authorized and encouraged—

''(1) to establish a standard of quality for drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools in the State in accordance with subsection (b); and

''(2) to identify and designate, upon application by a public elementary school or secondary school, any such school that achieves such standard as a quality program school.

''(b) CRITERIA.—The standard referred to in subsection (a) shall address, at a minimum—

''(1) a comparison of the rate of illegal use of drugs, alcohol, and tobacco by students enrolled in the school for a period of time to be determined by the chief executive officer of the State;

''(2) the rate of suspensions or expulsions of students enrolled in the school for drug, alcohol, or tobacco-related offenses;

''(3) the effectiveness of the drug, alcohol, or tobacco prevention program as proven by research;

''(4) the involvement of parents and community members in the design of the drug, alcohol, and tobacco prevention program; and

''(5) the extent of review of existing community drug, alcohol, and tobacco prevention programs before implementation of the public school program.

''(c) REQUEST FOR QUALITY PROGRAM SCHOOL DESIGNATION.—A school that wishes to receive a quality program school designation shall submit a request and documentation of compliance with this section to the chief executive officer of the State or the individual, entity, or agency described in subsection (a), as the case may be.

''(d) PUBLIC NOTIFICATION.—Not less than once a year, the chief executive officer of each State or the individual, entity, or agency described in subsection (a), as the case may be, shall make available to the public a list of the names of each public school in the State that has received a quality program school designation in accordance with this section.''.

SEC. 402. GUN-FREE REQUIREMENTS.

Title IV (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

''PART B—GUN POSSESSION

''SEC. 4201. GUN-FREE REQUIREMENTS.

''(a) SHORT TITLE.—This part may be cited as the ''Gun-Free Schools Act of 1994''.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—Each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

''(2) CONSTRUCTION.—Nothing in this part shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

''(3) DEFINITION.—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921(a) of title 18, United States Code.

''(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

''(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

''(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

''(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

''(A) the name of the school concerned;

''(B) the number of students expelled from such school; and

''(C) the type of weapons concerned.

''(e) REPORTING.—Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

''SEC. 4202. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

''(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

''(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the meanings given the terms in section 921(a) of title 18, United States Code.''.

SEC. 403. SCHOOL SAFETY AND VIOLENCE PREVENTION.

(a) IN GENERAL.—Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

''PART C—SCHOOL SAFETY AND VIOLENCE PREVENTION

''SEC. 4301. SCHOOL SAFETY AND VIOLENCE PREVENTION.

''Subject to this title, and subpart 4 of part B of title V, funds made available under this title and such subpart may be used for—

''(1) training, including in-service training, for school personnel (including custodians and bus drivers), with respect to—

''(A) the identification of potential threats, such as illegal weapons and explosive devices;

''(B) crisis preparedness and intervention procedures; and

''(C) emergency response;

''(2) training for parents, teachers, school personnel and other interested members of the community regarding the identification and responses to early warning signs of troubled and violent youth;

''(3) innovative scientifically based research delinquency and violence prevention programs, including—

''(A) school antiviolence programs; and

''(B) mentoring programs;

''(4) comprehensive security assessments;

''(5) in accordance with section 4116(c), the purchase of school security equipment and technologies such as—

''(A) metal detectors;

''(B) electronic locks; and

''(C) surveillance cameras;

''(6) collaborative efforts with community-based organizations, including faith-based organizations, statewide consortia, and law enforcement agencies, that have demonstrated expertise in providing effective, scientifically based research violence prevention and intervention programs for school-aged children;

''(7) providing assistance to States, local education agencies, or schools to establish school uniform policies;

''(8) school resource officers, including community policing officers; and

''(9) other innovative, local responses that are consistent with reducing incidents of school violence and improving the educational atmosphere of the classroom.

''SEC. 4302. SCHOOL UNIFORMS.

''(a) CONSTRUCTION.—Nothing in this part shall be construed to prohibit any State, local education agency, or school from establishing a school uniform policy.

''(b) FUNDING.—Subject to this title and subpart 4 of part B of title V, funds provided under this title and such subpart may be used for establishing a uniform policy.

''SEC. 4303. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

''(a) NONAPPLICATION OF PROVISIONS.—This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

''(b) DISCIPLINARY RECORDS.—In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after the date of enactment of this part, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.''.

(b) BACKGROUND CHECKS.—Section 5(9) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(9)) is amended—

(1) in subparagraph (A)(i), by inserting ''(including an individual who is employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)'' before the semicolon; and

(2) in subparagraph (B)(i), by inserting ''(including an individual who seeks to be employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)'' before the semicolon.

SEC. 404. ENVIRONMENTAL TOBACCO SMOKE.

Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

''PART D—ENVIRONMENTAL TOBACCO SMOKE

''SEC. 4401. SHORT TITLE.

''This part may be cited as the 'Pro-Children Act of 2001'.

''SEC. 4402. DEFINITIONS.

''As used in this part:

''(1) CHILDREN.—The term 'children' means individuals who have not attained the age of 18.

''(2) CHILDREN'S SERVICES.—The term 'children's services' means the provision on a routine or regular basis of health, day care, education, or library services—

''(A) that are funded, after the date of enactment of the Better Education for Students and Teachers Act, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

''(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act); or

''(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966; or

''(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any enforcement action carried out under this part,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966.

''(3) INDOOR FACILITY.—The term 'indoor facility' means a building that is enclosed.

''(4) PERSON.—The term 'person' means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''SEC. 4403. NONSMOKING POLICY FOR CHILDREN'S SERVICES.

''(a) PROHIBITION.—After the date of enactment of the Better Education for Students and Teachers Act, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

''(b) ADDITIONAL PROHIBITION.—

''(1) IN GENERAL.—After the date of enactment of the Better Education for Students and Teachers Act, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood development (Head Start) services.

''(2) EXCEPTION.—Paragraph (1) shall not apply to—

''(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

''(B) any private residence.

''(c) FEDERAL AGENCIES.—

''(1) KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION OR LIBRARY SERVICES.—After the date of enactment of the Better Education for Students and Teachers Act, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

''(2) HEALTH OR DAY CARE OR EARLY CHILDHOOD DEVELOPMENT SERVICES.—

''(A) IN GENERAL.—After the date of enactment of the Better Education for Students and Teachers Act, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

''(ii) any private residence.

''(3) APPLICATION OF PROVISIONS.—The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

''(d) NOTICE.—The prohibitions in subsections (a) through (c) shall be published in a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after the date of enactment of the Better Education for Students and Teachers Act, whichever occurs first.

''(e) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty assessed under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violation occurred. For the purpose of the prohibition in subsection (c), the term 'person', as used in this paragraph, shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

''(2) ADMINISTRATIVE PROCEEDING.—A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing, which shall be located, to the greatest extent possible, at a

location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

''(3) CIRCUMSTANCES AFFECTING PENALTY OR ORDER.—In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

''(A) the nature, circumstances, extent, and gravity of the violation;

''(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

''(C) such other matters as justice may require.

''(4) MODIFICATION.—The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

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

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

''SEC. 4404. PREEMPTION.

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

TITLE V—PUBLIC SCHOOL CHOICE AND FLEXIBILITY

SEC. 501. PUBLIC SCHOOL CHOICE AND FLEXIBILITY.

Title V (20 U.S.C. 7301 et seq.) is amended to read as follows:

''TITLE V—PUBLIC SCHOOL CHOICE AND FLEXIBILITY

''PART A—PUBLIC SCHOOL CHOICE

''Subpart 1—Charter Schools

''SEC. 5111. PURPOSE.

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

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

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

''(3) expanding the number of high-quality charter schools available to students across the Nation.

''SEC. 5112. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 5113 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

''(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5113, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5113(c).

''(c) PROGRAM PERIODS.—

''(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart shall be awarded for a period of not more than 3 years.

''(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

''(A) not more than 18 months for planning and program design;

''(B) not more than 2 years for the initial implementation of a charter school; and

''(C) not more than 2 years to carry out dissemination activities described in section 5114(f)(6)(B).

''(d) LIMITATION.—A charter school may not receive—

''(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

''(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

''(e) PRIORITY TREATMENT.—

''(1) IN GENERAL.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 5121, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

''(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

''(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

''(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.

''(B) The State—

''(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

''(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

''(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

''(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this subpart to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

''SEC. 5113. APPLICATIONS.

''(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

''(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

''(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

''(2) describe how the State educational agency—

''(A) will inform each charter school in the State regarding—

''(i) Federal funds that the charter school is eligible to receive; and

''(ii) Federal programs in which the charter school may participate;

''(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

''(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

''(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

''(A) a description of the educational program to be implemented by the proposed charter school, including—

''(i) how the program will enable all students to meet challenging State student performance standards;

''(ii) the grade levels or ages of children to be served; and

''(iii) the curriculum and instructional practices to be used;

''(B) a description of how the charter school will be managed;

''(C) a description of—

''(i) the objectives of the charter school; and

''(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

''(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

''(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

''(F) a description of how the authorized public chartering agency will provide for

continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

''(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

''(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

''(I) a description of how students in the community will be—

''(i) informed about the charter school; and

''(ii) given an equal opportunity to attend the charter school;

''(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

''(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

''(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

''(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 5112(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

''(N) such other information and assurances as the Secretary and the State educational agency may require.

''(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 5112(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

''(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

''(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking 'and the State educational agency' each place such term appears; and

''(2) assurances that the State educational agency—

''(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

''(B) will assist each subgrantee in the State in receiving a waiver under section 5114(e).

''SEC. 5114. ADMINISTRATION.

''(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 5113(b), after taking into consideration such factors as—

''(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

''(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

''(3) the ambitiousness of the objectives for the State charter school grant program;

''(4) the quality of the strategy for assessing achievement of those objectives;

''(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

''(6) the number of high quality charter schools created under this subpart in the State; and

''(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 5112(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

''(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 5113(c), after taking into consideration such factors as—

''(1) the quality of the proposed curriculum and instructional practices;

''(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

''(3) the extent of community support for the application;

''(4) the ambitiousness of the objectives for the charter school;

''(5) the quality of the strategy for assessing achievement of those objectives;

''(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

''(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 5112(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

''(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

''(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this subpart, shall award subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

''(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

''(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

''(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 5120(1), if—

''(1) the waiver is requested in an approved application under this subpart; and

''(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

''(f) USE OF FUNDS.—

''(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

''(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

''(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

(A) post-award planning and design of the educational program, which may include—

''(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

''(ii) professional development of teachers and other staff who will work in the charter school; and

''(B) initial implementation of the charter school, which may include—

''(i) informing the community about the school;

''(ii) acquiring necessary equipment and educational materials and supplies;

''(iii) acquiring or developing curriculum materials; and

''(iv) other initial operational costs that cannot be met from State or local sources.

''(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

''(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

''(6) DISSEMINATION.—

''(A) IN GENERAL.—A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

''(i) substantial progress in improving student achievement;

''(ii) high levels of parent satisfaction; and

''(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

''(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

''(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter

school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

''(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

''(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

''(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

''(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

''(1) the eligibility of the school to receive any other Federal, State, or local aid; or

''(2) the amount of such aid.

''SEC. 5115. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

''(1) To provide charter schools, either directly or through State educational agencies, with—

''(A) information regarding—

''(i) Federal funds that charter schools are eligible to receive; and

''(ii) other Federal programs in which charter schools may participate; and

''(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

''(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

''(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

''(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

''(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

''(4) To provide—

''(A) information to applicants for assistance under this subpart;

''(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5113;

''(C) assistance in the planning and startup of charter schools;

''(D) training and technical assistance to existing charter schools; and

''(E) for the dissemination to other public schools of best or promising practices in charter schools.

''(5) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

''SEC. 5116. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

''(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

''(b) ADJUSTMENT AND LATE OPENINGS.—

''(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

''(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

''SEC. 5117. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

''To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

''SEC. 5118. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

''SEC. 5119. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

''SEC. 5120. DEFINITIONS.

''In this subpart:

''(1) CHARTER SCHOOL.—The term 'charter school' means a public school that—

''(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

''(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

''(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

''(D) provides a program of elementary or secondary education, or both;

''(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

''(F) does not charge tuition;

''(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

''(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

''(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

''(J) meets all applicable Federal, State, and local health and safety requirements;

''(K) operates in accordance with State law; and

''(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

''(2) DEVELOPER.—The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

''(3) ELIGIBLE APPLICANT.—The term 'eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this subpart.

''(4) AUTHORIZED PUBLIC CHARTERING AGENCY.—The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

''SEC. 5121. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subpart, there are authorized to be appropriated $190,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"Subpart 2—Magnet Schools Assistance

"SEC. 5131. FINDINGS AND STATEMENT OF PURPOSE.

''(a) FINDINGS.—Congress makes the following findings:

''(1) Magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation of our Nation's schools.

''(2) It is in the national interest to continue the Federal Government's support of school districts that are implementing court-ordered desegregation plans and school districts that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds.

''(3) Desegregation can help ensure that all students have equitable access to high-quality education that will prepare them to function well in a technologically oriented and highly competitive society comprised of people from many different racial and ethnic backgrounds.

''(4) It is in the national interest to desegregate and diversify those schools in our Nation that are racially, economically, linguistically, or ethnically segregated. Such segregation exists between minority and nonminority students as well as among students of different minority groups.

''(b) STATEMENT OF PURPOSE.—The purpose of this subpart is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

''(1) the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students which shall assist in the efforts of the United States to achieve voluntary desegregation in public schools;

''(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State and local content standards and challenging State and local student performance standards;

''(3) the development and design of innovative educational methods and practices;

''(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational, technological and career skills of students attending such schools;

''(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding is terminated; and

''(6) ensuring that all students enrolled in the magnet school program have equitable access to high quality education that will enable the students to succeed academically and continue with post secondary education or productive employment.

"SEC. 5132. PROGRAM AUTHORIZED.

''The Secretary, in accordance with this subpart, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this subpart for magnet schools that are—

''(1) part of an approved desegregation plan; and

''(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 5133. DEFINITION.

''For the purpose of this subpart, the term 'magnet school' means a public elementary school or secondary school or a public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"SEC. 5134. ELIGIBILITY.

''A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this subpart to carry out the purposes of this subpart if such agency or consortium—

''(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary schools and secondary schools of such agency; or

''(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this subpart, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

"SEC. 5135. APPLICATIONS AND REQUIREMENTS.

''(a) APPLICATIONS.—An eligible local educational agency or consortium of such agencies desiring to receive assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

''(b) INFORMATION AND ASSURANCES.—Each such application shall include—

''(1) a description of—

''(A) how assistance made available under this subpart will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

''(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

''(C) how an applicant will continue the magnet school project after assistance under this subpart is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this subpart cannot be continued without the use of funds under this subpart;

''(D) how funds under this subpart will be used to implement services and activities that are consistent with other programs under this Act, and other Acts, as appropriate, in accordance with the provisions of section 5506; and

''(E) the criteria to be used in selecting students to attend the proposed magnet school project; and

''(2) assurances that the applicant will—

''(A) use funds under this subpart for the purposes specified in section 5131(b);

''(B) employ State certified or licensed teachers in the courses of instruction assisted under this subpart to teach or supervise others who are teaching the subject matter of the courses of instruction;

''(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

''(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

''(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

''(iii) designing or operating extracurricular activities for students;

''(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

''(E) give students residing in the local attendance area of the proposed magnet school project equitable consideration for placement in the project, consistent with desegregation guidelines and the capacity of the project to accommodate these students.

''(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

"SEC. 5136. PRIORITY.

''In approving applications under this subpart, the Secretary shall give priority to applicants that—

''(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

''(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

''(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

''(4) propose to implement innovative educational approaches that are consistent with the State and local content and student performance standards; and

''(5) propose activities, which may include professional development, that will build local capacity to operate the magnet school program once Federal assistance has terminated.

"SEC. 5137. USE OF FUNDS.

''(a) IN GENERAL.—Grant funds made available under this subpart may be used by an eligible local educational agency or consortium of such agencies—

''(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

''(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

''(3) for the payment, or subsidization of the compensation, of elementary school and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools;

''(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

''(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

''(B) further the purposes of this subpart;

''(5) to include professional development, which professional development shall build the agency's or consortium's capacity to operate the magnet school once Federal assistance has terminated;

''(6) to enable the local educational agency or consortium to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

''(7) to enable the local educational agency or consortium to have flexibility in designing magnet schools for students at all grades.

''(b) SPECIAL RULE.—Grant funds under this subpart may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English,

foreign languages, art, or music, or to improving vocational, technological and career skills.

"SEC. 5138. PROHIBITION.

''Grants under this subpart may not be used for transportation or any activity that does not augment academic improvement.

"SEC. 5139. LIMITATIONS.

''(a) DURATION OF AWARDS.—A grant under this subpart shall be awarded for a period that shall not exceed 3 fiscal years.

''(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning (professional development shall not be considered as planning for purposes of this subsection) not more than 50 percent of the funds received under this subpart for the first year of the project, 25 percent of such funds for the second such year, and 15 percent of such funds for the third such year.

''(c) AMOUNT.—No local educational agency or consortium awarded a grant under this subpart shall receive more than $4,000,000 under this subpart in any 1 fiscal year.

''(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this subpart not later than June 1 of the applicable fiscal year.

"SEC. 5140. INNOVATIVE PROGRAMS.

''(a) IN GENERAL.—From amounts reserved under subsection (d) for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 5134 to enable such agencies or consortia to conduct innovative programs that—

''(1) involve innovative strategies other than magnet schools, such as neighborhood or community model schools, to support desegregation of schools and to reduce achievement gaps;

''(2) assist in achieving systemic reforms and providing all students the opportunity to meet challenging State and local content standards and challenging State and local student performance standards; and

''(3) include innovative educational methods and practices that—

''(A) are organized around a special emphasis, theme, or concept; and

''(B) involve extensive parent and community involvement.

''(b) APPLICABILITY.—Sections 5131(b), 5132, 5135, 5136, and 5137, shall not apply to grants awarded under subsection (a).

''(c) APPLICATIONS.—Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

''(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve not more than 5 percent of the funds appropriated under section 5142(a) for each fiscal year to award grants under this section.

"SEC. 5141. EVALUATIONS.

''(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 5142(a) for any fiscal year to carry out evaluations of projects assisted under this subpart and to provide technical assistance for grant recipients under this subpart.

''(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

''(1) how and the extent to which magnet school programs lead to educational quality and improvement;

''(2) the extent to which magnet school programs enhance student access to quality education;

''(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students;

''(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs; and

''(5) the extent to which magnet school programs continue once grant assistance under this subpart is terminated.

''(c) DISSEMINATION.—The Secretary shall collect and disseminate to the general public information on successful magnet school programs.

"SEC. 5142. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

''(a) AUTHORIZATION.—For the purpose of carrying out this subpart, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this subpart in the preceding fiscal year.

"Subpart 3—Public School Choice

"SEC. 5151. PUBLIC SCHOOL CHOICE.

''(a) ALLOTMENT TO STATE.—From the amount appropriated under subsection (e) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relation to the amount as the amount the State received under section 1122 for the preceding year bears to the amount received by all States under section 1122 for the preceding year.

''(b) STATE USE OF FUNDS.—Each State receiving an allotment under subsection (a) shall use 100 percent of the allotted funds for allocations to local educational agencies to enable the local educational agencies to carry out school improvement under section 1116(c).

''(c) PUBLIC SCHOOL CHOICE.—Subject to subsection (d), each local educational agency receiving an allocation under subsection (b), and each local educational agency that is within a State that receives funds under part A of title I (other than a local educational agency within a State that receives a minimum grant under section 1124(d) or 1124A(a)(1)(B) of such Act), shall provide all students enrolled in a school identified under section 1116(c) and served by the local educational agency with the option to transfer to another public school within the school district served by the local educational agency, including a public charter school, that has not been identified for school improvement under section 1116(c), unless such option to transfer is prohibited by State law or local law (which includes school board-approved local educational agency policy).

''(d) SPECIAL RULE.—If a local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide all students with the option to transfer to another public school within the school district served by the local educational agency in accordance with subsection (c), and gives notice (consistent with State and local law) to the parents of children affected that it is not possible to accommodate the transfer request of every student, then the local educational agency shall permit as many students as possible (who shall be selected by the local educational agency on an equitable basis) to transfer to a public school within such school district that has not been identified for school improvement under section 1116(c).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years.''.

"PART B—FLEXIBILITY

"Subpart 1—Education Flexibility Partnerships

"SEC. 5201. SHORT TITLE.

''This subpart may be cited as the 'Education Flexibility Partnership Act of 2001'.

"SEC. 5202. DEFINITIONS.

''In this subpart:

''(1) ELIGIBLE SCHOOL ATTENDANCE AREA; SCHOOL ATTENDANCE AREA.—The terms 'eligible school attendance area' and 'school attendance area' have the meanings given the terms in section 1113(a)(2).

''(2) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

"SEC. 5203. EDUCATION FLEXIBILITY PARTNERSHIP.

''(a) EDUCATIONAL FLEXIBILITY PROGRAM.—

''(1) PROGRAM AUTHORIZED.—

''(A) IN GENERAL.—The Secretary may carry out an educational flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more programs described in subsection (b), other than requirements described in subsection (c), for any local educational agency or school within the State.

''(B) DESIGNATION.—Each eligible State participating in the program described in subparagraph (A) shall be known as an 'Ed-Flex Partnership State'.

''(2) ELIGIBLE STATE.—For the purpose of this section the term 'eligible State' means a State that—

''(A) has—

''(i) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b), and for which local educational agencies in the State are producing the individual school performance profiles required by section 1116(a)(3); or

''(ii)(I) developed and implemented the content standards described in clause (i);

''(II) developed and implemented interim assessments; and

''(III) made substantial progress (as determined by the Secretary) toward developing and implementing the performance standards and final aligned assessments described in clause (i), and toward having local educational agencies in the State produce the profiles described in clause (i);

''(B) holds local educational agencies and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4), and for engaging in technical assistance and corrective actions consistent with section 1116, for the local educational agencies and schools that do not make adequate yearly progress as described in section 1111(b)(2); and

''(C) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

''(3) STATE APPLICATION.—

''(A) IN GENERAL.—Each State educational agency desiring to participate in the educational flexibility program under this section shall submit an application to the Secretary at such time, in such manner, and

containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

''(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

''(I) Federal statutory or regulatory requirements as described in paragraph (1)(A); and

''(II) State statutory or regulatory requirements relating to education;

''(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

''(iii) a description of clear educational objectives the State intends to meet under the educational flexibility plan;

''(iv) a description of how the educational flexibility plan is consistent with and will assist in implementing the State comprehensive reform plan or, if a State does not have a comprehensive reform plan, a description of how the educational flexibility plan is coordinated with activities described in section 1111(b);

''(v) a description of how the State educational agency will evaluate, consistent with the requirements of title I, the performance of students in the schools and local educational agencies affected by the waivers; and

''(vi) a description of how the State educational agency will meet the requirements of paragraph (8).

''(B) APPROVAL AND CONSIDERATIONS.—The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within the State in carrying out comprehensive educational reform, after considering—

''(i) the eligibility of the State as described in paragraph (2);

''(ii) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

''(iii) the ability of the educational flexibility plan to ensure accountability for the activities and goals described in such plan;

''(iv) the degree to which the State's objectives described in subparagraph (A)(iii)—

''(I) are clear and have the ability to be assessed; and

''(II) take into account the performance of local educational agencies or schools, and students, particularly those affected by waivers;

''(v) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

''(vi) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and for monitoring and evaluating the results of such waivers.

''(4) LOCAL APPLICATION.—

''(A) IN GENERAL.—Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement as described in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

''(i) indicate each Federal program affected and each statutory or regulatory requirement that will be waived;

''(ii) describe the purposes and overall expected results of waiving each such requirement;

''(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency or school affected by the proposed waiver, and for the students served by the local educational agency or school who are affected by the waiver;

''(iv) explain why the waiver will assist the local educational agency or school in reaching such goals; and

''(v) in the case of an application from a local educational agency, describe how the local educational agency will meet the requirements of paragraph (8).

''(B) EVALUATION OF APPLICATIONS.—A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (3)(A).

''(C) APPROVAL.—A State educational agency shall not approve an application for a waiver under this paragraph unless—

''(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively;

''(ii) the waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) will assist the local educational agency or school in reaching its educational goals, particularly goals with respect to school and student performance; and

''(iii) the State educational agency is satisfied that the underlying purposes of the statutory requirements of each program for which a waiver is granted will continue to be met.

''(D) TERMINATION.—The State educational agency shall annually review the performance of any local educational agency or school granted a waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) in accordance with the evaluation requirement described in paragraph (3)(A)(v), and shall terminate any waiver granted to the local educational agency or school if the State educational agency determines, after notice and an opportunity for a hearing, that the local educational agency or school's performance with respect to meeting the accountability requirement described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii)—

''(i) has been inadequate to justify continuation of such waiver; or

''(ii) has decreased for two consecutive years, unless the State educational agency determines that the decrease in performance was justified due to exceptional or uncontrollable circumstances.

''(5) OVERSIGHT AND REPORTING.—

''(A) OVERSIGHT.—Each State educational agency participating in the educational flexibility program under this section shall annually monitor the activities of local educational agencies and schools receiving waivers under this section.

''(B) STATE REPORTS.—

''(i) ANNUAL REPORTS.—The State educational agency shall submit to the Secretary an annual report on the results of such oversight and the impact of the waivers on school and student performance.

''(ii) PERFORMANCE DATA.—Not later than 2 years after the date a State is designated an Ed-Flex Partnership State, each such State shall include, as part of the State's annual report submitted under clause (i), data demonstrating the degree to which progress has been made toward meeting the State's educational objectives. The data, when applicable, shall include—

''(I) information on the total number of waivers granted for Federal and State statutory and regulatory requirements under this section, including the number of waivers granted for each type of waiver;

''(II) information describing the effect of the waivers on the implementation of State and local educational reforms pertaining to school and student performance;

''(III) information describing the relationship of the waivers to the performance of schools and students affected by the waivers; and

''(IV) an assurance from State program managers that the data reported under this section are reliable, complete, and accurate, as defined by the State, or a description of a plan for improving the reliability, completeness, and accuracy of such data as defined by the State.

''(C) SECRETARY'S REPORTS.—The Secretary, not later than 2 years after the date of enactment of the Education Flexibility Partnership Act of 1999 and annually thereafter, shall—

''(i) make each State report submitted under subparagraph (B) available to Congress and the public; and

''(ii) submit to Congress a report that summarizes the State reports and describes the effects that the educational flexibility program under this section had on the implementation of State and local educational reforms and on the performance of students affected by the waivers.

''(6) DURATION OF FEDERAL WAIVERS.—

''(A) IN GENERAL.—The Secretary shall not approve the application of a State educational agency under paragraph (3) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers—

''(i) has been effective in enabling such State or affected local educational agencies or schools to carry out their State or local reform plans and to continue to meet the accountability requirement described in paragraph (2)(C); and

''(ii) has improved student performance.

''(B) PERFORMANCE REVIEW.—Three years after the date a State is designated an Ed-Flex Partnership State, the Secretary shall review the performance of the State educational agency in granting waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and an opportunity for a hearing, that such agency's performance (including performance with respect to meeting the objectives described in paragraph (3)(A)(iii)) has been inadequate to justify continuation of such authority.

''(C) RENEWAL.—In deciding whether to extend a request for a State educational agency's authority to issue waivers under this section, the Secretary shall review the progress of the State educational agency to determine if the State educational agency—

''(i) has made progress toward achieving the objectives described in the application submitted pursuant to paragraph (3)(A)(iii); and

''(ii) demonstrates in the request that local educational agencies or schools affected by the waiver authority or waivers have made progress toward achieving the desired results described in the application submitted pursuant to paragraph (4)(A)(iii).

''(7) AUTHORITY TO ISSUE WAIVERS.—Notwithstanding any other provision of law, the Secretary is authorized to carry out the educational flexibility program under this section for each of the fiscal years 2002 through 2008.

''(8) PUBLIC NOTICE AND COMMENT.—Each State educational agency seeking waiver authority under this section and each local

educational agency seeking a waiver under this section—

''(A) shall provide the public with adequate and efficient notice of the proposed waiver authority or waiver, consisting of a description of the agency's application for the proposed waiver authority or waiver in a widely read or distributed medium, including a description of any improved student performance that is expected to result from the waiver authority or waiver;

''(B) shall provide the opportunity for parents, educators, and all other interested members of the community to comment regarding the proposed waiver authority or waiver;

''(C) shall provide the opportunity described in subparagraph (B) in accordance with any applicable State law specifying how the comments may be received, and how the comments may be reviewed by any member of the public; and

''(D) shall submit the comments received with the agency's application to the Secretary or the State educational agency, as appropriate.

''(b) INCLUDED PROGRAMS.—The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements for programs carried out under the following provisions:

''(1) Title I (other than subsections (a) and (c) of section 1116, subpart 2 of part B, and part F).

''(2) Subparts 1, 2, and 3 of part A of title II.

''(3) Part C of title II.

''(4) Part C of title III.

''(5) Part A of title IV.

''(6) Subpart 4 of this part.

''(7) The Carl D. Perkins Vocational and Technical Education Act of 1998.

''(c) WAIVERS NOT AUTHORIZED.—The Secretary and the State educational agency may not waive under subsection (a)(1)(A) any statutory or regulatory requirement—

''(1) relating to—

''(A) maintenance of effort;

''(B) comparability of services;

''(C) equitable participation of students and professional staff in private schools;

''(D) parental participation and involvement;

''(E) distribution of funds to States or to local educational agencies;

''(F) serving eligible school attendance areas in rank order under section 1113(a)(3);

''(G) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that a State educational agency may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections (a) and (b);

''(H) use of Federal funds to supplement, not supplant, non-Federal funds; and

''(I) applicable civil rights requirements; and

''(2) unless the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met to the satisfaction of the Secretary.

''(d) TREATMENT OF EXISTING ED-FLEX PARTNERSHIP STATES.—

''(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), this section shall not apply to a State educational agency that has been granted waiver authority under the provisions of law described in paragraph (2) (as such provisions were in effect on the day before the date of enactment of the Better Education for Students and Teachers Act) for the duration of the waiver authority.

''(2) APPLICABLE PROVISIONS.—The provisions of law referred to in paragraph (1) are as follows:

''(A) Section 311(e) of the Goals 2000: Educate America Act (as such section was in effect on the day before the date of enactment of the Better Education for Students and Teachers Act).

''(B) The proviso referring to such section 311(e) under the heading 'EDUCATION REFORM' in the Department of Education Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–229).

''(3) SPECIAL RULE.—If a State educational agency granted waiver authority pursuant to the provisions of law described in subparagraph (A) or (B) of paragraph (2) applies to the Secretary for waiver authority under this section—

''(A) the Secretary shall review the progress of the State educational agency in achieving the objectives set forth in the application submitted pursuant to section 311(e) of the Goals 2000: Educate America Act (as such section was in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(B) the Secretary shall administer the waiver authority granted under this section in accordance with the requirements of this section.

''(4) TECHNOLOGY.—In the case of a State educational agency granted waiver authority under the provisions of law described in subparagraph (A) or (B) of paragraph (2), the Secretary shall permit a State educational agency to expand, on or after the date of enactment of the Better Education for Students and Teachers Act, the waiver authority to include programs under part C of title II.

''(e) PUBLICATION.—A notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, including a description of the rationale the Secretary used to approve applications under subsection (a)(3)(B), shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

"Subpart 2—Rural Education Initiative

"SEC. 5221. SHORT TITLE.

''This subpart may be cited as the 'Rural Education Achievement Program'.

"SEC. 5222. PURPOSE.

''It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

''(1) lack the personnel and resources needed to compete for Federal competitive grants; and

''(2) receive formula allocations in amounts too small to be effective in meeting their intended purposes.

"SEC. 5223. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart—

''(1) $300,000,000 for fiscal year 2002, of which $150,000,000 shall be made available to carry out chapter 1; and

''(2) such sums as may be necessary for each of the 6 succeeding fiscal years.

"Chapter 1—Small, Rural School Achievement Program

"SEC. 5231. FORMULA GRANT PROGRAM AUTHORIZED.

''(a) ALTERNATIVE USES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to carry out activities described in section 1114, 1115, 1116, 2123, or 4116.

''(2) NOTIFICATION.—An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1) not later than a date that is established by the State educational agency for the notification.

''(b) ELIGIBILITY.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

''(1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

''(2) all of the schools served by the local educational agency are designated with a School Locale Code of 7 or 8, as determined by the Secretary, except that the Secretary may waive the School Locale Code requirement of this paragraph if the Secretary determines, based on certification provided by the local educational agency or the State educational agency on behalf of the local educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

''(c) APPLICABLE FUNDING.—In this section, the term 'applicable funding' means funds provided under each of titles II and IV, and subpart 4 of this part.

''(d) DISBURSAL.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State, or local education funds.

''(f) SPECIAL RULE.—References in Federal law to funds for the provisions of law set forth in subsection (c) may be considered to be references to funds for this section.

''(g) CONSTRUCTION.—Nothing in this chapter shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this section.

"SEC. 5232. COMPETITIVE GRANT PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities described in section 1114, 1115, 1116, 2123, 2213, 2306, or 4116.

''(b) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this section if—

''(1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

''(2) all of the schools served by the local educational agency are designated with a School Locale Code of 7 or 8, as determined by the Secretary, except that the Secretary may waive the School Locale Code requirement of this paragraph if the Secretary determines, based on certification provided by

the local educational agency or the State educational agency on behalf of the local educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

''(c) AMOUNT.—

''(1) IN GENERAL.—The Secretary shall award a grant to a local educational agency under this section for a fiscal year in an amount equal to the amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 5231(c) for the fiscal year.

''(2) DETERMINATION.—The amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students that are in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the amount may not exceed $60,000.

''(3) CENSUS DETERMINATION.—

''(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall conduct a census not later than December 1 of each year to determine the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency.

''(B) SUBMISSION.—Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

''(4) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under paragraph (3) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received under this section if the agency had submitted accurate information under paragraph (3).

''(d) DISBURSAL.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State, or local education funds.

''(f) CONSTRUCTION.—Nothing in this chapter shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this section.

''SEC. 5233. ACCOUNTABILITY.

''(a) ACADEMIC ACHIEVEMENT.—

''(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 5231 or 5232 for a fiscal year shall—

''(A) administer an assessment that is used statewide and is consistent with the assessment described in section 1111(b), to assess the academic achievement of students in the schools served by the local educational agency; or

''(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

''(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section 5231 or 5232 shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out under such section.

''(b) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives funding under the provisions of law described in section 5231(c) shall—

''(1) after the 3rd year that a local educational agency in the State participates in a program authorized under section 5231 or 5232 and on the basis of the results of the assessments or tests described in subsection (a), determine whether the students served by the local educational agency participating in the program performed better on the assessments or tests after the 3rd year of the participation than the students performed on the assessments or tests after the 1st year of the participation;

''(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

''(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program, for a period of 3 years from the date of the determination.

''SEC. 5234. RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.

''(a) IN GENERAL.—If the amount appropriated for any fiscal year and made available for grants under this chapter is insufficient to pay the full amount for which all agencies are eligible under this chapter, the Secretary shall ratably reduce each such amount.

''(b) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subsection (a) shall be increased on the same basis as such payments were reduced.

''Chapter 2—Low-Income and Rural School Program

''SEC. 5241. DEFINITIONS.

''In this chapter:

''(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(2) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency' means an eligible local educational agency, located in a State that does not participate in a program carried out under this chapter for a fiscal year, which may apply directly to the Secretary for a grant for such year in accordance with section 5242(b).

''SEC. 5242. PROGRAM AUTHORIZED.

''(a) GRANTS TO STATES.—

''(1) IN GENERAL.—From the sum appropriated under section 5223 for a fiscal year and made available to carry out this chapter, the Secretary shall award grants, from allotments made under paragraph (2), to State educational agencies that have applications approved under section 5244 to enable the State educational agencies to award grants to eligible local educational agencies for innovative assistance activities described in section 5331(b).

''(2) ALLOTMENT.—From the sum appropriated under section 5223 for a fiscal year and made available to carry out this chapter, the Secretary shall allot to each State educational agency an amount that bears the same ratio to the sum as the number of students in average daily attendance at the schools served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students at the schools served by eligible local educational agencies in all States for that fiscal year.

''(b) DIRECT GRANTS TO SPECIALLY QUALIFIED AGENCIES.—

''(1) NONPARTICIPATING STATE.—If a State educational agency elects not to participate in the program carried out under this chapter or does not have an application approved under section 5244, a specially qualified agency in such State desiring a grant under this chapter shall apply directly to the Secretary under section 5244 to receive a grant under this chapter.

''(2) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under subsection (a)(2) directly to specially qualified agencies in the State.

''(c) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this chapter may not use more than 5 percent of the amount of the grant for State administrative costs.

''SEC. 5243. STATE DISTRIBUTION OF FUNDS.

''(a) IN GENERAL.—A State educational agency that receives a grant under this chapter may use the funds made available through the grant to award grants to eligible local educational agencies to enable the local educational agencies to carry out innovative assistance activities described in section 5331(b).

''(b) LOCAL AWARDS.—

''(1) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this chapter if—

''(A) 20 percent or more of the children age 5 through 17 that are served by the local educational agency are from families with incomes below the poverty line; and

''(B) all of the schools served by the agency are located in a community with a Locale Code of 6, 7, or 8, as determined by the Secretary of Education.

''(c) AWARD BASIS.—The State educational agency shall award the grants to eligible local educational agencies—

''(1) on a competitive basis; or

''(2) according to a formula based on the number of students in average daily attendance at schools served by the eligible local educational agencies.

''SEC. 5244. APPLICATIONS.

''(a) IN GENERAL.—Each State educational agency and specially qualified agency desiring to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONTENTS.—At a minimum, such application shall include information on specific measurable goals and objectives to be achieved through the activities carried out through the grant, which may include specific educational goals and objectives relating to—

''(1) increased student academic achievement;

''(2) decreased student dropout rates; or

''(3) such other factors as the State educational agency or specially qualified agency may choose to measure.

''SEC. 5245. ACCOUNTABILITY.

''(a) STATE REPORTS.—Each State educational agency that receives a grant under this chapter shall prepare and submit to the Secretary an annual report. The report shall describe—

''(1) the method the State educational agency used to award grants to eligible local educational agencies under this chapter;

''(2) how the local educational agencies used the funds provided under this chapter; and

''(3) the degree to which the State made progress toward meeting the goals and objectives described in the application submitted under section 5244.

''(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this chapter shall prepare and submit to the Secretary an annual report. The report shall describe—

''(1) how such agency used the funds provided under this chapter; and

''(2) the degree to which the agency made progress toward meeting the goals and objectives described in the application submitted under section 5244.

''(c) ACADEMIC ACHIEVEMENT.—

''(1) IN GENERAL.—Each local educational agency that receives a grant under this chapter for a fiscal year shall—

''(A) administer an assessment that is used statewide and is consistent with the assessment described in section 1111(b), to assess the academic achievement of students in the schools served by the local educational agency; or

''(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

''(2) SPECIAL RULE.—Each local educational agency that receives a grant under this chapter shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out under this chapter.

''(d) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives a grant under this chapter shall—

''(1) after the 3rd year that a local educational agency in the State participates in the program authorized under this chapter and on the basis of the results of the assessments or tests described in subsection (c), determine whether the students served by the local educational agency participating in the program performed better on the assessments or tests after the 3rd year of the participation than the students performed on the assessments or tests after the 1st year of the participation;

''(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

''(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program for a period of 3 years from the date of the determination.

''SEC. 5246. SUPPLEMENT NOT SUPPLANT.

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

''SEC. 5247. SPECIAL RULE.

''No local educational agency may concurrently participate in activities carried out under chapter 1 and activities carried out under this chapter.

''Subpart 3—Waivers

''SEC. 5251. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

''(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

''(1) receives funds under a program authorized by this Act; and

''(2) requests a waiver under subsection (b).

''(b) REQUEST FOR WAIVER.—

''(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

''(A) identifies the Federal programs affected by such requested waiver;

''(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

''(i) increase the quality of instruction for students; or

''(ii) improve the academic performance of students;

''(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

''(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

''(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

''(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

''(2) ADDITIONAL INFORMATION.—Such requests—

''(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

''(B) shall be developed and submitted—

''(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

''(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

''(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

''(3) GENERAL REQUIREMENTS.—

''(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

''(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

''(ii) submit the comments to the Secretary; and

''(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

''(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

''(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

''(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

''(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

''(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

''(2) maintenance of effort;

''(3) comparability of services;

''(4) use of Federal funds to supplement, not supplant, non-Federal funds;

''(5) equitable participation of private school students and teachers;

''(6) parental participation and involvement;

''(7) applicable civil rights requirements;

''(8) the requirement for a charter school under subpart 1 of part A;

''(9) the prohibitions regarding—

''(A) State aid in section 5; or

''(B) use of funds for religious worship or instruction in section 10; or

''(10) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections (a) and (b).

''(d) DURATION AND EXTENSION OF WAIVER.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed 3 years.

''(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

''(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

''(B) such extension is in the public interest.

''(e) REPORTS.—

''(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

''(A) describes the uses of such waiver by such agency or by schools;

''(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

''(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

''(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

''(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

''(A) describes the uses of such waiver by schools operated by such tribe; and

''(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

''(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

''(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

''(B) describing whether such waivers—

''(i) increased the quality of instruction to students; or

''(ii) improved the academic performance of students.

''(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

''(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

"Subpart 4—Innovative Education Program Strategies

"SEC. 5301. PURPOSE; STATE AND LOCAL RESPONSIBILITY.

''(a) PURPOSE.—The purpose of this subpart is—

''(1) to support local education reform efforts that are consistent with and support statewide education reform efforts;

''(2) to provide funding to enable State and local educational agencies to implement promising educational reform strategies;

''(3) to provide a continuing source of innovation and educational improvement, including support for library services and instructional and media materials; and

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

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

"SEC. 5302. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

''(a) AUTHORIZATION.—To carry out the purposes of this subpart, there are authorized to be appropriated $850,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 2002, and ending September 30, 2008, the Secretary, in accordance with the provisions of this subpart, shall make payments to State educational agencies for the purpose of this subpart.

"SEC. 5303. DEFINITION OF EFFECTIVE SCHOOLS PROGRAM.

''In this subpart the term 'effective schools program' means a school-based program that—

''(1) may encompass preschool through secondary school levels; and

''(2) has the objectives of—

''(A) promoting school-level planning, instructional improvement, and staff development for all personnel;

''(B) increasing the academic performance levels of all children and particularly educationally disadvantaged children; and

''(C) achieving as an ongoing condition in the school the following factors identified through effective schools research:

''(i) Strong and effective administrative and instructional leadership.

''(ii) A safe and orderly school environment that enables teachers and students to focus on academic performance.

''(iii) Continuous assessment of students and initiatives to evaluate instructional techniques.

"Chapter 1—State and Local Programs

"SEC. 5311. ALLOTMENT TO STATES.

''(a) RESERVATIONS.—From the sums appropriated to carry out this subpart in any fiscal year, the Secretary shall reserve not more than 1 percent for payments to outlying areas to be allotted in accordance with their respective needs.

''(b) ALLOTMENT.—From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to ½ of 1 percent of such remainder.

''(c) DEFINITIONS.—In this chapter:

''(1) SCHOOL-AGE POPULATION.—The term 'school-age population' means the population aged 5 through 17.

''(2) STATE.—The term 'State' includes the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 5312. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

''(a) FORMULA.—From the sums made available each year to carry out this subpart, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private elementary schools and secondary schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies serving the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

''(1) children living in areas with high concentrations of low-income families;

''(2) children from low-income families; and

''(3) children living in sparsely populated areas.

''(b) CALCULATION OF ENROLLMENTS.—

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

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

''(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this subpart, for the fiscal year preceding the fiscal year for which the determination is made.

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

''(3) ADJUSTMENTS.—

''(A) IN GENERAL.—Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

''(i) children living in areas with high concentrations of low-income families;

''(ii) children from low-income families; or

''(iii) children living in sparsely populated areas.

''(B) CRITERIA.—The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under subparagraph (A) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

''(c) PAYMENT OF ALLOCATIONS.—

''(1) DISTRIBUTION.—From the funds paid to a State educational agency pursuant to section 5311 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 5333 the amount of such local educational agency's allocation as determined under subsection (a).

''(2) ADDITIONAL FUNDS.—

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

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

''(C) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"Chapter 2—State Programs

"SEC. 5321. STATE USES OF FUNDS.

''(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available for State use under this subpart only for—

''(1) State administration of programs under this subpart, including—

''(A) supervision of the allocation of funds to local educational agencies;

''(B) planning, supervision, and processing of State funds; and

''(C) monitoring and evaluation of programs and activities under this subpart;

''(2) support for planning, designing, and initial implementation of charter schools as described in subpart 1 of part A;

''(3) support for designing and implementation of high-quality yearly student assessments;

''(4) support for implementation of State and local standards; and

''(5) technical assistance and direct grants to local educational agencies, and statewide education reform activities, including effective schools programs which assist local educational agencies to provide targeted assistance.

''(b) LIMITATIONS AND REQUIREMENTS.—Not more than 15 percent of funds available for State programs under this subpart in any fiscal year may be used for State administration under subsection (a)(1).

"SEC. 5322. STATE APPLICATIONS.

''(a) APPLICATION REQUIREMENTS.—Any State which desires to receive assistance under this subpart shall submit to the Secretary an application which—

''(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this subpart;

''(2) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this subpart;

''(3) sets forth the allocation of such funds required to implement section 5342;

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

''(5) provides assurances that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application under section 5333;

''(6) contains assurances that there is compliance with the specific requirements of this subpart; and

''(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

''(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

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

''Chapter 3—Local Innovative Education Programs

''SEC. 5331. TARGETED USE OF FUNDS.

''(a) GENERAL RULE.—Funds made available to local educational agencies under section 5312 shall be used for innovative assistance described in subsection (b).

''(b) INNOVATIVE ASSISTANCE.—

''(1) IN GENERAL.—The innovative assistance programs referred to in subsection (a) include—

''(A) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, and other curricular materials;

''(B) programs to improve teaching and learning, including professional development activities, that are consistent with comprehensive State and local systemic education reform efforts;

''(C) activities that encourage and expand improvements throughout the local educational agency that are designed to advance student performance;

''(D) initiatives to generate, maintain, and strengthen parental and community involvement, including initiatives creating activities for school-age children and activities to meet the educational needs of children aged birth through 5;

''(E) programs to recruit, hire, and train certified teachers (including teachers certified through State and local alternative routes) in order to reduce class size;

''(F) programs to improve the academic performance of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school;

''(G) programs and activities that expand learning opportunities through best practice models designed to improve classroom learning and teaching;

''(H) programs to combat both student and parental illiteracy;

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

''(J) school improvement programs or activities under section 1116 or 1117;

''(K) programs to provide for the educational needs of gifted and talented children;

''(L) programs to provide same gender schools and classrooms, if equal educational opportunities are made available to students of both sexes, consistent with the Constitution of the United States of America;

''(M) service learning activities; and

''(N) school safety programs.

''(2) REQUIREMENTS.—The innovative assistance programs referred to in subsection (a) shall be—

''(A) tied to promoting high academic standards;

''(B) used to improve student performance; and

''(C) part of an overall education reform strategy.

''SEC. 5332. ADMINISTRATIVE AUTHORITY.

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

''SEC. 5333. LOCAL APPLICATIONS.

''(a) CONTENTS OF APPLICATION.—A local educational agency or consortium of such agencies may receive an allocation of funds under this subpart for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

''(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 5331 and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

''(B) sets forth the allocation of such funds required to implement section 5342;

''(2) describes how assistance under this subpart will contribute to improving student achievement or improving the quality of education for students;

''(3) provides assurances of compliance with the provisions of this subpart, including the participation of children enrolled in private, nonprofit schools in accordance with section 5342;

''(4) provides an assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State educational agency under this subpart; and

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

''(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds to programs for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

''(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this subpart, a local educational agency shall have complete discretion in determining how funds under this chapter shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this chapter carry out the purposes of this subpart and are used to meet the educational needs within the schools of such local educational agency.

''Chapter 4—General Administrative Provisions

''SEC. 5341. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

''(a) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

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

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

''(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this subpart only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

''SEC. 5342. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

''(a) PARTICIPATION ON EQUITABLE BASIS.—

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

for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

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

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

''(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

''(c) FUNDS.—

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

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

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

''(e) WAIVER AND PROVISION OF SERVICES.—

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

''(2) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

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

''(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

''(h) REVIEW.—

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

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

''(3) REMAND TO SECRETARY.—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 make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

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

''(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of part I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this subpart, apply to programs under this subpart.

''SEC. 5343. FEDERAL ADMINISTRATION.

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

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

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

''PART C—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

''SEC. 5401. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

''(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

''(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

''(2) APPLICABILITY.—This section applies to programs under title I, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 3(10).

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

''(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a), such as—

''(A) the coordination of such programs with other Federal and non-Federal programs;

''(B) the establishment and operation of peer-review mechanisms under this Act;

''(C) the administration of this part, part D, and sections 3 through 17;

''(D) the dissemination of information regarding model programs and practices; and

''(E) technical assistance under programs specified in subsection (a)(2).

''(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

''(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative

funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

''(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

''(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act.

''SEC. 5402. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

''A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

''SEC. 5403. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

''(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

''(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

''(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

''(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 5401(b)(2).

''(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

''SEC. 5404. ADMINISTRATIVE FUNDS STUDIES.

''(a) FEDERAL FUNDS STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

''(2) STATE DATA.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under title I shall submit to the Secretary a report on the use of title I funds for the State administration of activities assisted under title I. Such report shall include the proportion of State administrative funds provided under section 1903 that are expended for—

''(A) basic program operation and compliance monitoring;

''(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

''(C) technical assistance and other direct support to local educational agencies and schools.

''(3) FEDERAL FUNDS REPORT.—The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

''(4) RESULTS.—Based on the results of the study described in subsection (a)(1), which may include collection and analysis of the data under paragraph (2) and section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall—

''(A) develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies; and

''(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

''(b) GENERAL ADMINISTRATIVE FUNDS STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

''(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

''(2) the potential usefulness of such data system to reduce such administrative expenses;

''(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

''(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

''SEC. 5405. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

''(a) GENERAL AUTHORITY.—

''(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title VII of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

''(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

''(B) The agreement shall—

''(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, and set forth performance measures to assess program effectiveness, including measurable goals and objectives; and

''(ii) be developed in consultation with Indian tribes.

''(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

''SEC. 5406. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

''With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of title I) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

''PART D—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

''SEC. 5501. PURPOSE.

''It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

''SEC. 5502. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—

''(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

''(A) each of the covered programs in which the State participates; and

''(B) the additional programs described in paragraph (2).

''(2) ADDITIONAL PROGRAMS.—A State educational agency may also include in its consolidated State plan or consolidated State application—

''(A) the Even Start program under part B of title I;

''(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of title I; and

''(C) such other programs as the Secretary may designate.

''(3) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

''(b) COLLABORATION.—

''(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

''(2) CONTENTS.—Through the collaborative process described in subsection (b)(1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

''(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

''SEC. 5503. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

''(a) ASSURANCES.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 5502, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

''(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

''(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

''(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

''(3) the State will adopt and use proper methods of administering each such program, including—

''(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

''(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

''(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

''(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

''(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

''(6) the State will—

''(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

''(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

''(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

''(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

''SEC. 5504. ADDITIONAL COORDINATION.

''(a) ADDITIONAL COORDINATION.—In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this Act with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

''(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date of enactment of the Improving America's Schools Act of 1994.

''SEC. 5505. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

''(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 5502 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

''(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

''(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

''SEC. 5506. OTHER GENERAL ASSURANCES.

''(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 5504, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

''(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

''(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

''(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

''(3) the applicant will adopt and use proper methods of administering each such program, including—

''(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

''(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

''(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

''(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

''(6) the applicant will—

''(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

''(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

''(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

''(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

''PART E—ADVANCED PLACEMENT PROGRAMS

''SEC. 5601. SHORT TITLE.

''This part may be cited as the 'Access to High Standards Act'.

''SEC. 5602. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) far too many students are not being provided sufficient academic preparation in secondary school, which results in limited employment opportunities, college dropout rates of over 25 percent for the first year of college, and remediation for almost one-third of incoming college freshmen;

''(2) there is a growing consensus that raising academic standards, establishing high academic expectations, and showing concrete results are at the core of improving public education;

''(3) modeling academic standards on the well-known program of advanced placement courses is an approach that many education leaders and almost half of all States have endorsed;

''(4) advanced placement programs already are providing 30 different college-level courses, serving almost 60 percent of all secondary schools, reaching over 1,000,000 students (of whom 80 percent attend public schools, 55 percent are females, and 30 percent are minorities), and providing test scores that are accepted for college credit at over 3,000 colleges and universities, every university in Germany, France, and Austria, and most institutions in Canada and the United Kingdom;

''(5) 24 States are now funding programs to increase participation in advanced placement programs, including 19 States that provide funds for advanced placement teacher professional development, 3 States that require that all public secondary schools offer advanced placement courses, 10 States that pay the fees for advanced placement tests for some or all students, and 4 States that require that their public universities grant uniform academic credit for scores of 3 or better on advanced placement tests; and

''(6) the State programs described in paragraph (5) have shown the responsiveness of schools and students to such programs, raised the academic standards both for students participating in such programs and for other children taught by teachers who are involved in advanced placement courses, and have shown tremendous success in increasing enrollment, achievement, and minority participation in advanced placement programs.

''(b) PURPOSES.—The purposes of this part are—

''(1) to encourage more of the 600,000 students who take advanced placement courses but do not take advanced placement exams

each year to demonstrate their achievements through taking the exams;

''(2) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Tests (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

''(3) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

''(4) to increase the availability and broaden the range of schools that have advanced placement programs, which programs are still often distributed unevenly among regions, States, and even secondary schools within the same school district, while also increasing and diversifying student participation in the programs;

''(5) to build on the State programs described in subsection (a)(5) and demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

''(6) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

''(7) to provide access to advanced placement courses for secondary school juniors at schools that do not offer advanced placement programs, increase the rate of secondary school juniors and seniors who participate in advanced placement courses to 25 percent of the secondary school student population, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded; and

''(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees.

''SEC. 5603. FUNDING DISTRIBUTION RULE.

''From amounts appropriated under section 5608 for a fiscal year, the Secretary shall give first priority to funding activities under section 5606, and shall distribute any remaining funds not so applied according to the following ratio:

''(1) Seventy percent of the remaining funds shall be available to carry out section 5604.

''(2) Thirty percent of the remaining funds shall be available to carry out section 5605.

''SEC. 5604. ADVANCED PLACEMENT PROGRAM GRANTS.

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—From amounts appropriated under section 5608 and made available under section 5603(1) for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (c).

''(2) DURATION AND PAYMENTS.—

''(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

''(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

''(3) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a State educational agency or a local educational agency in the State.

''(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to eligible entities submitting applications under subsection (d) that demonstrate—

''(1) a pervasive need for access to advanced placement incentive programs;

''(2) the involvement of business and community organizations in the activities to be assisted;

''(3) the availability of matching funds from State or local sources to pay for the cost of activities to be assisted;

''(4) a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science; and

''(5)(A) in the case of an eligible entity that is a State educational agency, the State educational agency carries out programs in the State that target—

''(i) local educational agencies serving schools with a high concentration of low-income students; or

''(ii) schools with a high concentration of low-income students; or

''(B) in the case of an eligible entity that is a local educational agency, the local educational agency serves schools with a high concentration of low-income students.

''(c) AUTHORIZED ACTIVITIES.—An eligible entity may use grant funds under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

''(1) teacher training;

''(2) preadvanced placement course development;

''(3) curriculum coordination and articulation between grade levels that prepare students for advanced placement courses;

''(4) curriculum development;

''(5) books and supplies; and

''(6) any other activity directly related to expanding access to and participation in advanced placement incentive programs particularly for low-income individuals.

''(d) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(e) DATA COLLECTION AND REPORTING.—

''(1) DATA COLLECTION.—Each eligible entity receiving a grant under this section shall annually report to the Secretary—

''(A) the number of students taking advanced placement courses who are served by the eligible entity;

''(B) the number of advanced placement tests taken by students served by the eligible entity;

''(C) the scores on the advanced placement tests; and

''(D) demographic information regarding individuals taking the advanced placement courses and tests disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

''(2) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to Congress regarding the information.

''SEC. 5605. ONLINE ADVANCED PLACEMENT COURSES.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 5608 and made available under section 5603(2) for a fiscal year, the Secretary shall award grants to State educational agencies to enable such agencies to award grants to local educational agencies to provide students with online advanced placement courses.

''(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

''(1) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.

''(c) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under subsection (b) shall award grants to local educational agencies within the State to carry out activities described in subsection (e). In awarding grants under this subsection, the State educational agency shall give priority to local educational agencies that—

''(1) serve high concentrations of low-income students;

''(2) serve rural areas; and

''(3) the State educational agency determines will not have access to online advanced placement courses without assistance provided under this section.

''(d) CONTRACTS.—A local educational agency that receives a grant under this section may enter into a contract with a nonprofit or for-profit organization to provide the online advanced placement courses, including contracting for necessary support services.

''(e) USES.—Grant funds provided under this section may be used to purchase the online curriculum, to train teachers with respect to the use of online curriculum, and to purchase course materials.

''SEC. 5606. ADVANCED PLACEMENT INCENTIVE PROGRAM.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 5608 and made available under section 5603 for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under subsection (c) to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

''(1) are enrolled in an advanced placement class; and

''(2) plan to take an advanced placement test.

''(b) AWARD BASIS.—In determining the amount of the grant awarded to each State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 1124(c) in the State in relation to the number of such children so counted in all the States.

''(c) INFORMATION DISSEMINATION.—A State educational agency shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

''(d) APPLICATIONS.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

''(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds made available under this section;

''(2) provide an assurance that any grant funds received under this section, other than funds used in accordance with subsection (e), shall be used only to pay for advanced placement test fees; and

''(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

''(e) ADDITIONAL USES OF FUNDS.—If each eligible low-income individual in a State pays not more than a nominal fee to take an

advanced placement test in a core subject, then a State educational agency may use grant funds made available under this section that remain after advanced placement test fees have been paid on behalf of all eligible low-income individuals in the State, for activities directly related to increasing—

''(1) the enrollment of low-income individuals in advanced placement courses;

''(2) the participation of low-income individuals in advanced placement courses; and

''(3) the availability of advanced placement courses in schools serving high-poverty areas.

''(f) SUPPLEMENT, NOT SUPPLANT.—Grant funds provided under this section shall supplement, and not supplant, other non-federal funds that are available to assist low-income individuals in paying for the cost of advanced placement test fees.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

''(h) REPORT.—Each State educational agency annually shall report to the Secretary information regarding—

''(1) the number of low-income individuals in the State who received assistance under this section; and

''(2) any activities carried out pursuant to subsection (e).

''(i) DEFINITIONS.—In this section:

''(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

''(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

''SEC. 5607. DEFINITIONS.

''In this part:

''(1) ADVANCED PLACEMENT INCENTIVE PROGRAM.—The term 'advanced placement incentive program' means a program that provides advanced placement activities and services to low-income individuals.

''(2) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' means an advanced placement test administered by the College Board or approved by the Secretary.

''(3) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term 'high concentration of low-income students', used with respect to a State educational agency, local educational agency or school, means an agency or school, as the case may be, that serves a student population 40 percent or more of whom are from families with incomes below the poverty level, as determined in the same manner as the determination is made under section 1124(c)(2).

''(4) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means, other than for purposes of section 5606, a low-income individual (as defined in section 402A(g)(2) of the Higher Education Act of 1965) who is academically prepared to take successfully an advanced placement test as determined by a school teacher or advanced placement coordinator taking into consideration factors such as enrollment and performance in an advanced placement course or superior academic ability.

''(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965.

''(6) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''SEC. 5608. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART F—PERFORMANCE AGREEMENTS

''SEC. 5701. SHORT TITLE.

''This part may be cited as the 'Performance Agreements Act'.

''SEC. 5702. PURPOSE.

''The purpose of this part is to create options for selected State educational agencies and local educational agencies—

''(1) to improve the academic achievement of all students served by State educational agencies and local educational agencies, and to focus the resources of the Federal Government on that achievement;

''(2) to better empower parents, educators, administrators, and schools to effectively address the needs of their children and students;

''(3) to give participating State educational agencies and local educational agencies greater flexibility in determining how to increase their students' academic achievement and implement education reforms in their schools;

''(4) to eliminate barriers to implementing effective State and local education reform, while preserving the goals of equality of opportunity for all students and accountability for student progress;

''(5) to hold participating State educational agencies and local educational agencies accountable for increasing the academic achievement of all students, especially disadvantaged students; and

''(6) to narrow achievement gaps between the lowest and highest performing groups of students, particularly low-income and minority students, so that no child is left behind.

''SEC. 5703. PROGRAM AUTHORITY; SELECTION OF STATE EDUCATIONAL AGENCIES AND LOCAL EDUCATIONAL AGENCIES.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—Except as otherwise provided in this part, the Secretary shall enter into performance agreements—

''(A) with State educational agencies and local educational agencies that submit approvable performance agreement proposals and are selected under paragraph (2); and

''(B) under which the agencies may consolidate and use funds as described in section 5705.

''(2) SELECTION OF STATE EDUCATIONAL AGENCIES AND LOCAL EDUCATIONAL AGENCIES FOR PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the Secretary shall select not more than 7 State educational agencies and 25 local educational agencies to enter into performance agreements under this part. The State educational agencies and local educational agencies shall be selected from among those State educational agencies and local educational agencies that—

''(i) demonstrate, to the satisfaction of the Secretary, that the proposed performance agreement of the agency—

''(I) has substantial promise of meeting the requirements of this part; and

''(II) describes a plan to combine and use funds (as described in section 5705(a)(1)) under the agreement to exceed, by a statistically significant amount, the State's definition of adequate yearly progress (as described in subparagraph (B)) while meeting the requirements of sections 1111 and 1116;

''(ii) have developed, and are administering, the assessments described in section 1111(b)(3);

''(iii) provide information in the proposed performance agreement regarding how the State educational agency—

''(I) has notified the local educational agencies within the State of the State educational agency's intent to submit a proposed performance agreement; and

''(II) consulted with the Governor of the State about the terms of the proposed performance agreement;

''(iv) consulted and involved parents and educators in the development of the proposal; and

''(v) provide such other information, at such time and in such manner, as the Secretary may reasonably require.

''(B) DEFINITION OF ADEQUATE YEARLY PROGRESS.—In this part the term 'adequate yearly progress' means the adequate yearly progress determined by the State pursuant to section 1111(b)(2)(B).

''(C) GEOGRAPHIC DISTRIBUTION.—If more than 7 State educational agencies or 25 local educational agencies submit approvable performance agreements under this part, then the Secretary shall select agencies for performance agreements under this part in a manner that ensures, to the greatest extent possible, an equitable geographic distribution of such agencies selected for performance agreements. In addition, if more than 25 local educational agencies submit approvable performance agreements under this part, then the Secretary shall select local educational agencies for performance agreements under this part in a manner that ensures an equitable distribution of such agencies selected for performance agreements among such agencies serving urban and rural areas.

''(D) LOCAL EDUCATIONAL AGENCY PARTICIPATION.—

''(i) IN GENERAL.—If a local educational agency is located in a State that does not enter into a performance agreement under subparagraph (A), then the local educational agency may be selected to enter into a performance agreement with the Secretary under subparagraph (A), but only if the local educational agency—

''(I) meets the requirements of this part that are applicable to the local educational agency pursuant to clause (iii), except as provided under clause (v);

''(II) notifies the State educational agency of the local educational agency's intent to enter into a performance agreement under this part; and

''(III) notifies the Governor of the State regarding the terms of the proposed performance agreement.

''(ii) PROHIBITION.—In the event that a local educational agency enters into a performance agreement under this part, the State educational agency serving the State in which the local educational agency is located may not enter into a performance agreement under this part unless—

''(I) the State educational agency has consulted the local educational agency; and

''(II) the term of the local educational agency's original performance agreement has ended.

''(iii) APPLICABILITY.—Except as provided in clauses (iv) and (v), each requirement and limitation under this part that is applicable to a State educational agency with respect to a performance agreement under this part shall be applicable to a local educational agency with respect to a performance agreement under this section, to the extent the Secretary determines appropriate.

''(iv) LOCAL EDUCATIONAL AGENCY WAIVER.—

''(I) WAIVER.—If a local educational agency does not wish to participate in the State educational agency's performance agreement, then the local educational agency shall apply to the State educational agency

for a waiver within 45 days of notification from the State educational agency of the State educational agency's desire to participate in a performance agreement.

''(II) RESPONSE.—A State educational agency that receives a waiver application under subclause (I) shall respond to the waiver application within 45 days of receipt of the application. In order to obtain the waiver, the local educational agency shall reasonably demonstrate to the State educational agency that the local educational agency would be better able to exceed adequate yearly progress by opting out of the performance agreement and remaining subject to the requirements of the affected Federal programs. If the State educational agency denies the waiver, the State educational agency shall explain to the local educational agency the State educational agency's reasons for the denial.

''(III) APPLICABILITY.—If a local educational agency receives a waiver under this clause, then the agency shall receive funds and be subject to the provisions of Federal law governing each Federal program included in the State educational agency's performance agreement.

''(v) INAPPLICABILITY.—The following provisions shall not apply to a local educational agency with respect to a performance agreement under this part:

''(I) The provisions of section 5703(a)(2)(A)(iii) relating to State educational agency information.

''(II) The provisions of section 5704(a)(3)(B) limiting the use of funds other than those funds provided under part A of title I.

''(III) The provisions of section 5705(b), to the extent that those provisions permit the consolidation of funds that are awarded by a State on a competitive basis.

''(IV) The provisions relating to distribution of funds under section 5706.

''(V) The provisions limiting State use of funds for administrative purposes under section 5708(a).

''(VI) The provisions of section 5709(e)(1) regarding State sanctions.

''(b) ED-FLEX PROHIBITION.—Each State or local educational agency that enters into a performance agreement under this part shall be ineligible to receive a waiver under part B for the term of the performance agreement.

''SEC. 5704. PERFORMANCE AGREEMENT.

''(a) TERMS OF PERFORMANCE AGREEMENT.—

''(1) REQUIRED PROVISIONS.—Each performance agreement entered into by the Secretary and a State educational agency or a local educational agency under this part shall—

''(A) be for a term of 5 years, except as provided in section 5709(a);

''(B) provide that no requirements of any program described in section 5705(b) and included in the scope of the agreement shall apply, except as otherwise provided in this part;

''(C) list which of the programs described in section 5705(b) are included in the scope of the performance agreement;

''(D) contain a 5-year plan describing how the State educational agency will—

''(i) ensure compliance with sections 1003, 1111 (other than subsections (c) (3) and (10)), 1112 (other than subsections (b) (3) and (9), (c) (5), (7), and (9), and (d)(3)), 1114, 1115, 1116, 1117, and 1118 (c), (d), and (e) (1), (3), and (7), except that section 1114(a)(1) shall be applied substituting '35 percent' for '40 percent';

''(ii) address professional development under the performance agreement;

''(iii) combine and use the funds from programs included in the scope of the performance agreement to exceed, by a statistically significant amount, the State's definition of adequate yearly progress;

''(iv) if title II is included in the performance agreement, ensure compliance with sections 2141(a) and 2142(a), as applicable; and

''(v) if title III is included in the performance agreement, ensure compliance with section 3329;

''(E) contain an assurance that the State educational agency has provided parents, teachers, schools, and local educational agencies in the State, with notice and an opportunity to comment on the proposed terms of the performance agreement, including the distribution and use of funds to be consolidated, in accordance with State law;

''(F) provide that the State educational agency will use fiscal control and fund-accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the performance agreement;

''(G) contain an assurance that the State educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the performance agreement and in consolidating and using the funds under the performance agreement;

''(H) require that, in consolidating and using funds under the performance agreement, the State educational agency will comply with the equitable participation requirements described in section 5705(c);

''(I) provide that the State educational agency will, for the duration of the performance agreement, use funds consolidated and used under section 5705 only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds and used under section 5705, and not to supplant those funds;

''(J) contain an assurance that the State educational agency will comply with the maintenance of effort requirements of paragraph (2);

''(K) provide that, not later than 1 year after the date on which the Secretary and the State educational agency enter into the performance agreement, and annually thereafter during the term of the agreement, the State educational agency will disseminate widely to parents (in a format and, to the extent practicable, in a language the parents can understand) and the general public, transmit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes—

''(i) the data as described in section 1111(j);

''(ii) a detailed description of how the State educational agency used the funds consolidated under the performance agreement to exceed, by a statistically significant amount, its definition of adequate yearly progress; and

''(iii) whether the State educational agency has met the teacher quality goals established under title II; and

''(L) in the case of an agency that includes subpart 1 of part A of title IV in its performance agreement, contain an assurance that—

''(i) the agency will not diminish its ability to provide a drug and violence free learning environment as a result of entering into the performance agreement, except that nothing in this clause shall be construed to limit the ability of the agency to participate in a program under title IV due to an unforeseen event involving drugs or violence;

''(ii) the agency will prepare the needs assessment described in section 4112(a)(2) and the report described in section 4117 (b) and (c), as appropriate, for each school year; and

''(iii) the agency will use the information in the assessment and report described in clause (ii) to ensure compliance with clause (i).

''(2) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

''(A) IN GENERAL.—Each State entering into a performance agreement under this part shall not reduce the amount of State financial support for education for a fiscal year below the amount of such support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN EFFORT.—The Secretary shall reduce the allotment of funds to a State pursuant to the terms of the performance agreement for any fiscal year following a fiscal year in which the State fails to comply with subparagraph (A) by the same amount by which the State fails to meet the requirements of subparagraph (A).

''(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 granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

''(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), then 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.

''(3) MAINTENANCE OF LOCAL FINANCIAL SUPPORT.—

''(A) IN GENERAL.—Each local educational agency entering into a performance agreement under this part shall not reduce the amount of local educational agency financial support for education for a fiscal year below 90 percent of the amount of that support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the amount made available to a local educational agency under a performance agreement under this part for any fiscal year following the fiscal year in which the local educational agency fails to comply with subparagraph (A) by the same amount by which the local educational agency fails to meet the requirements of subparagraph (A).

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a local educational agency if the Secretary determines that granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, or to permit the local educational agency to adjust for changes in student population within the schools served by the local educational agency.

''(D) SUBSEQUENT YEARS.—If, for any year, a local educational agency fails to meet the requirement of subparagraph (A), including any year for which the local educational agency is granted a waiver under subparagraph (C), then the financial support required of the local educational agency 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 local educational agency's support.

''(4) PROGRAM-SPECIFIC PROVISIONS.—

''(A) PART A OF TITLE I FUNDS.—If part A of title I is included in the scope of the performance agreement, the performance agreement shall provide that sections 1113, and 1124 through 1127, shall apply to the allocation of funds under such part, unless the

State educational agency demonstrates, to the satisfaction of the Secretary and prior to approval of the performance agreement, that the State educational agency will use an alternative allocation method that will better target poverty or educational need. Any alternative method shall result in the percentage of such funds allocated to each local educational agency served by the State educational agency that meets the eligibility criteria for a concentration grant according to section 1124A exceeding the percentage of such funds allocated to such local educational agency under part A of title I. Such alternative allocation methods may include implementation of a State's weighted formula, use of a State's most current census data to better target poor children, or a State setting higher thresholds for poverty so that funding is more targeted to schools with higher concentrations of poverty.

''(B) NONTITLE I FUNDS.—The performance agreement shall provide that, for funds other than those under part A of title I that are consolidated and used under section 5705(b), the State educational agency will demonstrate, to the satisfaction of the Secretary and prior to approval of the performance agreement, that the State educational agency will allocate the funds in a manner that, each year, allocates funds to serve high concentrations of children from low-income families at a level proportional to or higher than the level that would occur without such consolidation or use.

''(b) APPROVAL OF PERFORMANCE AGREEMENT.—

''(1) IN GENERAL.—Subject to section 5703(a), not later than 90 days after the deadline established by the Secretary for receipt of a complete proposed performance agreement, the Secretary shall approve the performance agreement, or provide the State educational agency with a written explanation for not approving the performance agreement.

''(2) PEER REVIEW.—The Secretary shall—

''(A) establish a peer review process to assist in the review of proposed performance agreements under this part; and

''(B) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.

''(c) AMENDMENT TO PERFORMANCE AGREEMENT.—

''(1) IN GENERAL.—Not later than 1 year after entering into a performance agreement under this part, a State educational agency may amend its agreement to—

''(A) remove from the scope of the agreement any program described in section 5705(b); or

''(B) include in the scope of the agreement any additional program described in section 5705(b), or any additional achievement indicators for which the State educational agency will be held accountable.

''(2) APPROVAL OF AMENDMENT.—

''(A) IN GENERAL.—Not later than 90 days after the receipt of a complete proposed amendment described in paragraph (1), the Secretary shall approve the amendment unless the Secretary, by that deadline, provides the State educational agency with a written determination that the plan, as amended, would no longer have substantial promise of meeting the requirements of this part and meeting the State educational agency's objective to exceed adequate yearly progress.

''(B) TREATMENT AS APPROVED.—Each amendment for which the Secretary fails to take the action required under subparagraph (A) in the time period described in that subparagraph shall be considered to be approved.

''(3) ADDITIONAL AMENDMENTS.—In addition to the amendments described in paragraph (1), the State educational agency, at any time, may amend its performance agreement if the State educational agency demonstrates, to the satisfaction of the Secretary, that—

''(A) the plan, as amended, will continue to have substantial promise of meeting the requirements of this part; and

''(B) the amendment sought by the State will not substantially alter the original agreement.

''(4) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—The addition, or removal, of a program to or from the scope of a performance agreement under paragraph (1) shall take effect with respect to the participating agency's use of funds made available under that program beginning on the first day of the first full academic year following the approval of the amendment.

''SEC. 5705. CONSOLIDATION AND USE OF FUNDS.

''(a) IN GENERAL.—

''(1) AUTHORITY.—Under a performance agreement entered into under this part, a State educational agency may consolidate, subject to subsection (c), Federal funds made available to the State educational agency under the provisions listed in subsection (b) and use those funds for any purpose or use permitted under any of the eligible programs listed in section 5705(b), subject to paragraph (3).

''(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this part, a State educational agency may use funds under paragraph (1) notwithstanding the requirements of the program under which the funds were made available to the State educational agency.

''(3) CONTINUATION AWARDS.—A State educational agency shall make continuation awards for the duration of the grants to recipients of multiyear competitive grants under any of the programs described in subsection (b) that were initially awarded prior to entering into the performance agreement, and shall not consolidate any funds under subsection (b) for any year until after those continuation awards are made.

''(b) ELIGIBLE PROGRAMS.—Only funds made available for fiscal year 2002 or any succeeding fiscal year to State educational agencies under programs under any of the following provisions of law may be consolidated and used under subsection (a):

''(1) Part A (other than section 1003), subpart 1 of part B, part F or G, or subpart 2 of part H (but only if appropriations for such subpart exceed $250,000,000 and the program becomes a State formula grant program), of title I.

''(2) Subpart 1 or 2 of part A, or part C, of title II.

''(3) Part A or D, as appropriate, of title III (other than grant funds made available under section 3324(c)(1)).

''(4) Subpart 1 of part A of title IV.

''(5) Subpart 3 of part A, or subpart 4 of part B, of title V.

''(6) Any appropriation subsequent to fiscal year 2001 for the purposes described in section 310 of the Department of Education Appropriations Act, 2000.

''(7) Any appropriation subsequent to fiscal year 2001 for the purposes described in section 321(b)(2) of the Department of Education Appropriations Act, 2001.

''(8) Any other program under this Act that is enacted after the date of enactment of the Better Education for Students and Teachers Act under which the Secretary provides grants to State educational agencies to assist elementary and secondary education on the basis of a formula.

''(c) EQUITABLE PARTICIPATION REQUIREMENTS.—If a State educational agency or local educational agency includes in the scope of its performance agreement programs described in subsection (b) that have requirements relating to the equitable participation of private schools, then—

''(1) each local educational agency in the State, or the local educational agency, as appropriate, shall determine the amount of consolidated funds to be used for services and benefits for private school students and teachers by—

''(A) calculating separately the amount of funds for services and benefits for private school students and teachers under each program that is consolidated and to which those requirements apply; and

''(B) totaling the amounts calculated under subparagraph (A);

''(2) except as described in paragraph (3), all equitable participation requirements, including any bypass requirements, applicable to the program that is consolidated shall continue to apply to the funds consolidated under the agreement from that program; and

''(3) the agency may use the amount of funds determined under paragraph (1) only for those services and benefits for private school students and teachers in accordance with any of the consolidated programs to which the equitable participation requirements apply, but may not provide any additional benefits or services beyond those allowable under the applicable equitable participation requirements under this Act.

''SEC. 5706. STATE RESERVATION FOR STATE-LEVEL ACTIVITIES.

''(a) STATE-LEVEL ACTIVITIES.—In order to carry out State-level activities under the purposes described in section 5705(a)(1) to exceed, by a statistically significant amount, the State's definition of adequate yearly progress, a State educational agency that—

''(1) includes part A of title I in the scope of its performance agreement, may reserve not more than 5 percent of the funds under that part to carry out such activities; and

''(2) includes programs other than part A of title I in the scope of its performance agreement, may reserve not more than 10 percent of the funds under those other programs to carry out such activities.

''(b) DISTRIBUTION OF REMAINDER.—A State educational agency shall distribute the consolidated funds not used under subsection (a) to local educational agencies in the State in a manner determined by the State educational agency in accordance with section 5707.

''SEC. 5707. DISTRIBUTION OF FUNDS UNDER AGREEMENT.

''The distribution of funds consolidated under a performance agreement shall be determined by the State educational agency in consultation with the Governor of the State, subject to the requirements of this part.

''SEC. 5708. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

''(a) STATE EDUCATIONAL AGENCY.—Subject to section 5709(e)(1), each State educational agency that has entered into a performance agreement under this part may reserve for administrative purposes not more than 1 percent of the total amount of funds made available to the State educational agency under the programs included in the scope of the performance agreement.

''(b) LOCAL EDUCATIONAL AGENCY.—Subject to section 5709(e)(2), each local educational agency that has entered into a performance agreement with the Secretary under this part may use for administrative purposes not more than 4 percent of the total amount of funds made available to the local educational agency under the programs included in the scope of the performance agreement.

"SEC. 5709. PERFORMANCE REVIEW AND PENALTIES.

''(a) EARLY TERMINATION OF AGREEMENT.—

''(1) PERFORMANCE GOAL FAILURE.—Beginning with the first full academic year after a State educational agency enters into a performance agreement under this part, and after providing the State educational agency with notice and an opportunity for a hearing (including the opportunity to provide information as provided in paragraph (3)), if the State educational agency fails to meet its definition of adequate yearly progress for 2 consecutive years, or fails to exceed, by a statistically significant amount, its definition of adequate yearly progress for 3 consecutive years, then the Secretary shall terminate promptly the performance agreement.

''(2) NONCOMPLIANCE.—The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide information as provided in paragraph (3)), terminate a performance agreement if there is evidence that the State educational agency has failed to comply with the terms of the performance agreement.

''(3) INFORMATION.—If a State educational agency believes that the Secretary's determination under this subsection is in error for statistical or other substantive reasons, the State educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final early termination determination.

''(b) NO RENEWAL IF PERFORMANCE UNSATISFACTORY.—If, at the end of the 5-year term of a performance agreement entered into under this part, a State educational agency has not substantially met the State's definition of adequate yearly progress, then the Secretary shall not renew the agreement under section 5710.

''(c) TWO-YEAR WAIT-OUT PERIOD.—A State educational agency whose performance agreement was terminated under subsection (a), or was not renewed in accordance with subsection (b), may not enter into another performance agreement under this part until after the State educational agency meets its definition of adequate yearly progress for 2 consecutive years following the termination or nonrenewal.

''(d) PROGRAM REQUIREMENTS IN EFFECT AFTER TERMINATION OR NONRENEWAL OF THE AGREEMENT.—Beginning on the first day of the first full academic year following the end of a performance agreement under this part (including through termination under subsection (a)) the State educational agency shall comply with each of the program requirements in effect on that date for each program included in the performance agreement.

''(e) SANCTIONS.—

''(1) STATE SANCTIONS.—If, beginning with the first full academic year after a State educational agency enters into a performance agreement under this part—

''(A) the Secretary determines, on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, for 2 consecutive years, that—

''(i) the State educational agency has failed to exceed, by a statistically significant amount, the State's definition of adequate yearly progress; and

''(ii) students who are racial and ethnic minorities, and economically disadvantaged students, in the State failed to make statistically significant progress in the academic subjects for which the State has developed State content and student performance standards,

then the amount that the State educational agency may use for administrative expenses in accordance with section 5708 shall be reduced by 30 percent;

''(B) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 2141(a), then the Secretary shall withhold funds as described in section 2141(d); and

''(C) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 3329, then the Secretary shall withhold funds as described in section 3329(b).

''(2) LOCAL EDUCATIONAL AGENCIES.—If, beginning with the first full academic year after a local educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of data from the State assessment system described in section 1111 that a local educational agency failed to exceed, by a statistically significant amount, the State's definition of adequate yearly progress for 2 consecutive years, then the amount that the local educational agency may use for administrative expenses in accordance with section 5708 shall be reduced by 30 percent.

"SEC. 5710. RENEWAL OF PERFORMANCE AGREEMENT.

''(a) IN GENERAL.—Except as provided in section 5709 (a) and (b), and in accordance with this section, the Secretary shall renew for 1 additional 5-year term a performance agreement under this part if the Secretary determines, on the basis of the information reported under section 5704(a)(1)(K), that the adequate yearly progress described in the performance agreement has been exceeded by a statistically significant amount.

''(b) NOTIFICATION.—The Secretary shall not renew a performance agreement under this part unless the State educational agency seeking the renewal notifies the Secretary of the agency's intention to renew the performance agreement not less than 6 months prior to the end of the original term of the performance agreement.

''(c) EFFECTIVE DATE.—A renewal under this section shall be effective at the end of the original term of the performance agreement or on the date on which the State educational agency provides to the Secretary all data and information required under the performance agreement, whichever is later, except that in no case may there be a renewal under this section unless that data and information is provided to the Secretary not later than 60 days after the end of the original term of the performance agreement.

"SEC. 5711. EVALUATION.

''(a) STUDY.—The Secretary is authorized to award a grant to the Comptroller General to conduct a study examining the effectiveness of the demonstration program under this part. The study shall examine—

''(1) the performance of the disaggregated groups of students described in section 1111(b)(3)(J) prior to entering into the performance agreement as compared to the performance of such groups after completion of the performance agreement on State assessments and the National Assessment of Educational Progress;

''(2) the dropout data (as required by section 1111(j)) prior to entering into the performance agreement as compared to the dropout data after completion of the performance agreement;

''(3) the ways in which the State educational agencies and local educational agencies entering into performance agreements distributed and used Federal education resources as compared to the ways in which such agencies distributed and used Federal education resources prior to entering the performance agreement;

''(4) a comparison of the data described in paragraphs (1), (2), and (3) between State educational agencies and local educational agencies entering into performance agreements compared to other State educational agencies and local educational agencies to determine the effectiveness of the program; and

''(5) any other factors that are relevant to evaluating the effectiveness of the program.

''(b) REPORT.—The Secretary shall make public the results of the evaluation carried out under subsection (a) and shall report the results of the study to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"SEC. 5712. TRANSMITTAL OF REPORTS TO CONGRESS.

''Not later than 60 days after the Secretary receives an annual report described in section 5704(a)(1)(K), the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.''.

TITLE VI—PARENTAL INVOLVEMENT AND ACCOUNTABILITY

SEC. 601. PARENTAL INVOLVEMENT AND ACCOUNTABILITY.

Title VI (20 U.S.C. 7301 et seq.) is amended to read as follows:

"TITLE VI—PARENTAL INVOLVEMENT AND ACCOUNTABILITY

"PART A—PARENTAL ASSISTANCE

"SEC. 6101. PARENTAL INFORMATION AND RESOURCE CENTERS.

''(a) PURPOSE.—The purpose of this part is—

''(1) to provide leadership, technical assistance, and financial support to nonprofit organizations and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student performance;

''(2) to strengthen partnerships among parents (including parents of preschool age children), teachers, principals, administrators, and other school personnel in meeting the educational needs of children;

''(3) to develop and strengthen the relationship between parents and the school;

''(4) to further the developmental progress primarily of children assisted under this part; and

''(5) to coordinate activities funded under this part with parental involvement initiatives funded under section 1118 and other provisions of this Act.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish school-linked or school-based parental information and resource centers that provide training, information, and support to—

''(A) parents of children enrolled in elementary schools and secondary schools;

''(B) individuals who work with the parents described in subparagraph (A); and

''(C) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations), and other organizations that carry out parent education and family involvement programs.

''(2) AWARD RULE.—In awarding grants under this part, the Secretary shall ensure

that such grants are distributed in all geographic regions of the United States.

"SEC. 6102. APPLICATIONS.

''(a) GRANTS APPLICATIONS.—

''(1) IN GENERAL.—Each nonprofit organization or nonprofit organization in consortium with a local educational agency that desires a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

''(2) CONTENTS.—Each application submitted under paragraph (1), at a minimum, shall include assurances that the organization or consortium will—

''(A)(i) be governed by a board of directors the membership of which includes parents; or

''(ii) be an organization or consortium that represents the interests of parents;

''(B) establish a special advisory committee the membership of which includes—

''(i) parents described in section 6101(b)(1)(A);

''(ii) representatives of education professionals with expertise in improving services for disadvantaged children; and

''(iii) representatives of local elementary schools and secondary schools who may include students and representatives from local youth organizations;

''(C) use at least ½ of the funds provided under this part in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

''(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

''(E) serve both urban and rural areas;

''(F) design a center that meets the unique training, information, and support needs of parents described in section 6101(b)(1)(A), particularly such parents who are educationally or economically disadvantaged;

''(G) demonstrate the capacity and expertise to conduct the effective training, information and support activities for which assistance is sought;

''(H) network with—

''(i) local educational agencies and schools;

''(ii) parents of children enrolled in elementary schools and secondary schools;

''(iii) parent training and information centers assisted under section 682 of the Individuals with Disabilities Education Act;

''(iv) clearinghouses; and

''(v) other organizations and agencies;

''(I) focus on serving parents described in section 6101(b)(1)(A) who are parents of low-income, minority, and limited English proficient, children;

''(J) use part of the funds received under this part to establish, expand, or operate Parents as Teachers programs or Home Instruction for Preschool Youngsters programs;

''(K) provide assistance to parents in such areas as understanding State and local standards and measures of student and school performance; and

''(L) work with State and local educational agencies to determine parental needs and delivery of services.

''(b) GRANT RENEWAL.—For each fiscal year after the first fiscal year an organization or consortium receives assistance under this part, the organization or consortium shall demonstrate in the application submitted for such fiscal year after the first fiscal year that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

"SEC. 6103. USES OF FUNDS.

''(a) IN GENERAL.—Grant funds received under this part shall be used—

''(1) to assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

''(A) to engage in activities that will improve student performance, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational performance in comparison to State and local standards;

''(B) to provide followup support for their children's educational achievement;

''(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

''(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

''(E) to participate in the design and provision of assistance to students who are not making adequate educational progress;

''(F) to participate in State and local decisionmaking; and

''(G) to train other parents;

''(2) to obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents;

''(3) to help the parents learn and use the technology applied in their children's education;

''(4) to plan, implement, and fund activities for parents that coordinate the education of their children with other Federal programs that serve their children or their families; and

''(5) to provide support for State or local educational personnel if the participation of such personnel will further the activities assisted under the grant.

''(b) PERMISSIVE ACTIVITIES.—Grant funds received under this part may be used to assist schools with activities such as—

''(1) developing and implementing their plans or activities under sections 1118 and 1119; and

''(2) developing and implementing school improvement plans, including addressing problems that develop in the implementation of sections 1118 and 1119.

''(3) providing information about assessment and individual results to parents in a manner and a language the family can understand;

''(4) coordinating the efforts of Federal, State, and local parent education and family involvement initiatives; and

''(5) providing training, information, and support to—

''(A) State educational agencies;

''(B) local educational agencies and schools, especially those local educational agencies and schools that are low performing; and

''(C) organizations that support family-school partnerships.

''(c) GRANDFATHER CLAUSE.—The Secretary shall use funds made available under this part to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the Better Education for Students and Teachers Act) for the duration of the grant or contract award.

"SEC. 6104. TECHNICAL ASSISTANCE.

''The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

"SEC. 6105. REPORTS.

''(a) INFORMATION.—Each organization or consortium receiving assistance under this part shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this part, including—

''(1) the number of parents (including the number of minority and limited English proficient parents) who receive information and training;

''(2) the types and modes of training, information, and support provided under this part;

''(3) the strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this part;

''(4) the parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student achievement, student and school performance, and parental involvement in school planning, review, and improvement; and

''(5) the effectiveness of the activities that local educational agencies and schools are carrying out with regard to parental involvement and other activities assisted under this Act that lead to improved student achievement and improved student and school performance.

''(b) DISSEMINATION.—The Secretary annually shall disseminate, widely to the public and to Congress, the information that each organization or consortium submits under subsection (a) to the Secretary.

"SEC. 6106. GENERAL PROVISIONS.

''Notwithstanding any other provision of this part—

''(1) no person, including a parent who educates a child at home, a public school parent, or a private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this part; and

''(2) no program or center assisted under this part shall take any action that infringes in any manner on the right of a parent to direct the education of their children.

"SEC. 6107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"PART B—IMPROVING ACADEMIC ACHIEVEMENT

"SEC. 6201. EDUCATION AWARDS.

''(a) ACHIEVEMENT IN EDUCATION AWARDS.—

''(1) IN GENERAL.—The Secretary may make awards, to be known as 'Achievement in Education Awards', using a peer review process, to the States that, beginning with the 2002–2003 school year, make the most progress in improving educational achievement.

''(2) CRITERIA.—

''(A) IN GENERAL.—The Secretary shall make the awards on the basis of criteria consisting of—

''(i) the progress of economically disadvantaged students and of students who are racial and ethnic minorities—

''(I) in meeting the State's student performance standards as measured by the assessments described in section 1111(b)(3); and

''(II) beginning with the 2nd year for which data are available for all States, on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills;

''(ii) overall improvement in student achievement by the State's students on the assessments required by section 1111, and

(beginning with the 2nd year for which data are available for all States) on the assessments described in clause (i)(II);

''(iii) the progress of the State in improving the English proficiency of students who enter school with limited English proficiency;

''(iv) the progress of the State in increasing the percentage of students who graduate from secondary school; and

''(v) the progress of the State in increasing the percentage of students who take advanced coursework, such as advanced placement and international baccalaureate courses, and who pass advanced placement and international baccalaureate tests.

''(B) WEIGHT.—In applying the criteria described in subparagraph (A), the Secretary shall give the greatest weight to the criterion described in subparagraph (A)(i).

''(b) ASSESSMENT COMPLETION BONUSES.—The Secretary may make 1-time bonus payments to States that complete the development of assessments required by section 1111 in advance of the schedule specified in such section.

''(c) NO CHILD LEFT BEHIND AWARDS.—The Secretary may make awards, to be known as 'No Child Left Behind Awards' to the schools that—

''(1) are nominated by the States in which the schools are located; and

''(2) have made the greatest progress in improving the educational achievement of economically disadvantaged students.

''(d) FUND TO IMPROVE EDUCATION ACHIEVEMENT.—The Secretary may make awards for activities other than the activities described in subsections (a) through (c), such as character education, that are designed to promote the improvement of elementary and secondary education nationally.

''SEC. 6202. LOSS OF ADMINISTRATIVE FUNDS.

''(a) 2 YEARS OF INSUFFICIENT PROGRESS.—

''(1) REDUCTION.—If the Secretary makes the determinations described in paragraph (2) for 2 consecutive years, the Secretary shall reduce, by not more than 30 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''(2) DETERMINATIONS.—The determinations referred to in paragraph (1) are determinations, made on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, that—

''(A) the State has failed to make adequate yearly progress as defined under section 1111; and

''(B) students who are racial and ethnic minorities, and economically disadvantaged students, in the State failed to make statistically significant progress in the academic subjects for which the State has developed State content and student performance standards.

''(b) 3 OR MORE YEARS OF INSUFFICIENT PROGRESS.—If the Secretary makes the determinations described in subsection (a)(2) for a third or subsequent consecutive year, the Secretary shall reduce, by not more than 75 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''SEC. 6203. AUTHORIZATION OF APPROPRIATIONS.

''(a) STATE ASSESSMENT GRANTS.—For the purpose of developing and implementing the standards and assessments required under section 1111, there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $110,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) EDUCATION AWARDS.—For the purpose of carrying out section 6201, there are authorized to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.''.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

SEC. 701. PROGRAMS.

Title VII (20 U.S.C. 7401 et seq.) is amended to read as follows:

''TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

''PART A—INDIAN EDUCATION

''SEC. 7101. FINDINGS.

''Congress finds that—

''(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

''(A) are based on high-quality, internationally competitive content standards and student performance standards, and build on Indian culture and the Indian community;

''(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve the standards described in subparagraph (A); and

''(C) meet the unique educational and culturally related academic needs of American Indian and Alaska Native students;

''(2) since the date of enactment of the Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

''(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

''(4) the dropout rate for Indian students is unacceptably high: 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

''(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

''(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

''SEC. 7102. PURPOSE.

''(a) PURPOSE.—The purpose of this part is to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State performance standards as are expected for all students.

''(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

''(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

''(2) the education of Indian children and adults;

''(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

''(4) research, evaluation, data collection, and technical assistance.

''Subpart 1—Formula Grants to Local Educational Agencies

''SEC. 7111. PURPOSE.

''The purpose of this subpart is to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

''(1) are based on challenging State content standards and State student performance standards that are used for all students; and

''(2) are designed to assist Indian students to meet those standards.

''SEC. 7112. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) IN GENERAL.—The Secretary may make grants to local educational agencies and Indian tribes in accordance with this section.

''(b) LOCAL EDUCATIONAL AGENCIES.—

''(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children who are eligible under section 7117, and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

''(A) was at least 10; or

''(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

''(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

''(c) INDIAN TRIBES.—

''(1) IN GENERAL.—If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a parent committee under section 7114(c)(4), an Indian tribe that represents not less than ½ of the eligible Indian children who are served by such local educational agency may apply for such grant by submitting an application in accordance with section 7114.

''(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe shall not be subject to section 7114(c)(4) (relating to a parent committee), section 7118(c) (relating to maintenance of effort), or section 7119 (relating to State review of applications).

''SEC. 7113. AMOUNT OF GRANTS.

''(a) AMOUNT OF GRANT AWARDS.—

''(1) IN GENERAL.—Except as provided in subsections (c) and (d), for purposes of making grants under this subpart the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

''(A) the number of Indian children who are eligible under section 7117 and served by such agency; and

''(B) the greater of—

''(i) the average per-pupil expenditure of the State in which such agency is located; or

''(ii) 80 percent of the average per-pupil expenditure of all the States.

''(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) or subsection (b) in accordance with subsection (c).

''(b) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—

''(1) IN GENERAL.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), for purposes of making grants under this subpart the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

''(A) the total number of Indian children enrolled in schools that are operated by—

''(i) the Bureau of Indian Affairs; or

''(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

''(B) the greater of—

''(i) the average per-pupil expenditure of the State in which the school is located; or

''(ii) 80 percent of the average per-pupil expenditure of all the States.

''(2) SPECIAL RULE.—Any school described in paragraph (1) may apply for an allocation under this subpart by submitting an application in accordance with section 7114. The Secretary shall treat the school as if the school were a local educational agency for purposes of this subpart, except that any such school shall not be subject to section 7114(c)(4), 7118(c), or 7119.

''(c) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 7162(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a) and for the Secretary of the Interior under subsection (b), each of those amounts shall be ratably reduced.

''(d) MINIMUM GRANT.—

''(1) IN GENERAL.—Notwithstanding subsection (c), a local educational agency (including an Indian tribe as authorized under section 7112(b)) that is eligible for a grant under section 7112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (b), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

''(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

''(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grant recipients if the Secretary determines such increase is necessary to ensure quality programs.

''(e) DEFINITION.—In this section, the term 'average per-pupil expenditure', for a State, means an amount equal to—

''(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

''(2) the aggregate number of children who were included in average daily attendance and for whom such agencies provided free public education during such preceding fiscal year.

''SEC. 7114. APPLICATIONS.

''(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

''(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

''(2)(A) is consistent with the State and local plans submitted under other provisions of this Act; and

''(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards adopted under title I for all children;

''(3) explains how Federal, State, and local programs, especially programs carried out under title I, will meet the needs of such students;

''(4) demonstrates how funds made available under this subpart will be used for activities described in section 7115;

''(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

''(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

''(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

''(6) describes how the local educational agency—

''(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

''(B) will provide the results of each assessment referred to in subparagraph (A) to—

''(i) the committee of parents described in subsection (c)(4); and

''(ii) the community served by the local educational agency; and

''(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

''(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

''(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

''(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

''(A) carry out the functions of the Secretary under this subpart; and

''(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

''(3) the program for which assistance is sought—

''(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

''(B) will use the best available talents and resources, including individuals from the Indian community; and

''(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

''(4) the local educational agency developed the program with the participation and written approval of a committee—

''(A) that is composed of, and selected by—

''(i) parents of Indian children in the local educational agency's schools and teachers in the schools; and

''(ii) if appropriate, Indian students attending secondary schools of the agency;

''(B) a majority of whose members are parents of Indian children;

''(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

''(D) with respect to an application describing a schoolwide program carried out in accordance with section 7115(c), that has—

''(i) reviewed in a timely fashion the program; and

''(ii) determined that the program will enhance the availability of culturally related activities for American Indian and Alaska Native students; and

''(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

''SEC. 7115. AUTHORIZED SERVICES AND ACTIVITIES.

''(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7111, for services and activities that—

''(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7114;

''(2) are designed with special regard for the language and cultural needs of the Indian students; and

''(3) supplement and enrich the regular school program of such agency.

''(b) PARTICULAR SERVICES AND ACTIVITIES.—The services and activities referred to in subsection (a) may include—

''(1) culturally related activities that support the program described in the application submitted by the local educational agency;

''(2) early childhood and family programs that emphasize school readiness;

''(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

''(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

''(5) career preparation activities to enable Indian students to participate in programs

such as the programs supported by Public Law 103–239 and Public Law 88–210, including programs for tech-prep, mentoring, and apprenticeship activities;

''(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

''(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 7111;

''(8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

''(9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;

''(10) activities to promote coordination and collaboration between tribal, Federal, and State public schools in areas that will improve American Indian and Alaska Native student achievement; and

''(11) family literacy services.

''(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

''(1) the committee composed of parents established pursuant to section 7114(c)(4) approves the use of the funds for the schoolwide program; and

''(2) the schoolwide program is consistent with the purpose described in section 7111.

''(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to a local educational agency through a grant made under this subpart for a fiscal year may be used to pay for administrative costs.

''SEC. 7116. INTEGRATION OF SERVICES AUTHORIZED.

''(a) PLAN.—An entity receiving funds under this subpart may submit a plan to the Secretary for a demonstration project for the integration of education and related services provided to Indian students.

''(b) CONSOLIDATION OF PROGRAMS.—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the applicant, shall authorize the applicant to consolidate, in accordance with such plan, the federally funded education and related services programs of the applicant and the agencies, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

''(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (b) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved exclusively to serve Indian children under any program, for which the applicant is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services for Indian students.

''(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), the plan shall—

''(1) identify the programs or funding sources to be consolidated;

''(2) be consistent with the objectives of this section authorizing the program services to be integrated in a demonstration project;

''(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

''(4) describe the way in which the services are to be integrated and delivered and the results expected from the plan;

''(5) identify the projected expenditures under the plan in a single budget;

''(6) identify the State, tribal, or local agencies to be involved in the delivery of the services integrated under the plan;

''(7) identify any statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement the plan;

''(8) set forth measures of student achievement and performance goals designed to be met within a specified period of time for activities provided under the plan; and

''(9) be approved by a parent committee formed in accordance with section 7114(c)(4), if such a committee exists, in consultation with the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate.

''(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the head of each Federal agency providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal regulations, policies, or procedures necessary to enable the applicant to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected agency shall have the authority to waive, for the applicant, any regulation, policy, or procedure promulgated by that agency that has been so identified by the applicant or agency, unless the head of the affected agency determines that such a waiver is inconsistent with the objectives of this subpart or the provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

''(f) PLAN APPROVAL.—Within 90 days after the receipt of an applicant's plan by the Secretary under subsection (a), the Secretary shall inform the applicant, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the applicant shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

''(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—Not later than 180 days after the date of enactment of the Better Education for Students and Teachers Act, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal agency identified by the Secretary of Education, shall enter into an interagency memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency for a demonstration project authorized under this section shall be—

''(1) the Department of the Interior, in the case of an applicant that is a contract or grant school, as defined in section 1146 of the Education Amendments of 1978; or

''(2) the Department of Education, in the case of any other applicant.

''(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency for a demonstration project shall include—

''(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

''(2) the use of a single report format related to the projected expenditures for the individual project, which shall be used by an eligible entity to report on all project expenditures;

''(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

''(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

''(i) REPORT REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall develop, consistent with the requirements of this section, a single report format for the reports described in subsection (h).

''(2) REPORT INFORMATION.—Such report format shall require that the reports shall—

''(A) contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in the entity's approved plan, including the demonstration of student achievement; and

''(B) provide assurances to the Secretary of Education and the Secretary of the Interior that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

''(3) RECORD INFORMATION.—The Secretary shall require that records maintained at the local level on the programs consolidated for the project shall contain the information and provide the assurances described in paragraph (2).

''(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

''(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

''(l) ADMINISTRATION OF FUNDS.—

''(1) IN GENERAL.—An eligible entity shall administer the program funds for the consolidated programs in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds that shall be allocated to such program.

''(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

''(m) OVERAGE.—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

''(n) FISCAL ACCOUNTABILITY.—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill responsibilities for safeguarding Federal funds pursuant to chapter 75 of title 31, United States Code.

''(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

''(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of the

Better Education for Students and Teachers Act, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

''(2) FINAL REPORT.—Not later than 5 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

''(p) DEFINITION.—In this section, the term 'Secretary' means—

''(1) the Secretary of the Interior, in the case of an applicant that is a contract or grant school, as defined in section 1146 of the Education Amendments of 1978; or

''(2) the Secretary of Education, in the case of any other applicant.

''SEC. 7117. STUDENT ELIGIBILITY FORMS.

''(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b).

''(b) FORMS.—

''(1) IN GENERAL.—The form described in subsection (a) shall include—

''(A) either—

''(i)(I) the name of the tribe or band of Indians (as defined in section 7161(3)) with respect to which the child claims membership;

''(II) the enrollment number establishing the membership of the child (if readily available); and

''(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

''(ii) if the child is not a member of tribe or band of Indians (as so defined), the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership rolls, of any parent or grandparent of the child from whom the child claims eligibility under this subpart;

''(B) a statement of whether the tribe or band of Indians (as so defined) with respect to which the child, or parent or grandparent of the child, claims membership is federally recognized;

''(C) the name and address of the parent or legal guardian of the child;

''(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

''(E) any other information that the Secretary considers necessary to provide an accurate program profile.

''(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 7113, an eligibility form prepared pursuant to this section for a child shall include—

''(A) the name of the child;

''(B) the name of the tribe or band of Indians (as so defined) with respect to which the child claims membership; and

''(C) the dated signature of the parent or guardian of the child.

''(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of computing the amount of a grant award made under section 7113.

''(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 7161.

''(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–86 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

''(1) to establish eligibility under this subpart; and

''(2) to meet the requirements of subsection (a).

''(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

''(f) MONITORING AND EVALUATION REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW.—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the local educational agencies that are recipients of grants under this subpart. The sampling conducted under this paragraph shall take into account the size of such a local educational agency and the geographic location of such agency.

''(B) EXCEPTION.—A local educational agency may not be held liable to the United States or be subject to any penalty by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

''(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

''(A) be ineligible to apply for any other grant under this subpart; and

''(B) be liable to the United States for any funds from the grant that have not been expended.

''(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant award under section 7113.

''(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, the Secretary, in computing the amount of a grant award under section 7113 to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, shall use only 1 of the following, as selected by the school:

''(1) A count, certified by the Bureau, of the number of students in the school.

''(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

''(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in computing the amount of a local educational agency's grant award under section 7113 (other than in the case described in subsection (g)(1)), the local educational agency shall—

''(1) establish a date on, or a period not longer than 31 consecutive days during which, the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7114; and

''(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

''SEC. 7118. PAYMENTS.

''(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount computed under section 7113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

''(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

''(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

''(1) IN GENERAL.—The Secretary may not pay a local educational agency in a State the full amount of a grant award computed under section 7113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

''(2) FAILURE.—If, for any fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort at the level specified in paragraph (1), the Secretary shall—

''(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of the failure to maintain the fiscal effort at such level; and

''(B) not use the reduced amount of the combined fiscal effort for the year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) during the fiscal year for which the determination is made.

''(3) WAIVER.—

''(A) IN GENERAL.—The Secretary may waive the requirement of paragraph (1) for a

local educational agency, for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

''(B) FUTURE DETERMINATIONS.—The Secretary shall not use the reduced amount of the combined fiscal effort for the year for which the waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver during the fiscal year for which the waiver is granted.

''(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

''(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

''(2) otherwise become available for reallocation under this subpart.

''SEC. 7119. STATE EDUCATIONAL AGENCY REVIEW.

''Before submitting an application to the Secretary under section 7114, a local educational agency shall submit the application to the State educational agency, which may comment on the application. If the State educational agency comments on the application, the agency shall comment on each such application submitted by a local educational agency in the State and shall provide the comment to the appropriate local educational agency, with an opportunity to respond.

''Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

''SEC. 7121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

''(a) PURPOSE.—

''(1) IN GENERAL.—The purpose of this section is to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

''(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

''(A) other programs funded under this Act; and

''(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

''(b) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education) or a consortium of such entities.

''(c) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

''(A) innovative programs related to the educational needs of educationally disadvantaged children;

''(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in 1 or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

''(C) bilingual and bicultural programs and projects;

''(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

''(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation for Indian children;

''(F) comprehensive guidance, counseling, and testing services;

''(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

''(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

''(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

''(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

''(K) family literacy services; or

''(L) other services that meet the purpose described in subsection (a)(1).

''(2) PRE-SERVICE OR IN-SERVICE TRAINING.—Pre-service or in-service training of professional and paraprofessional personnel may be a part of any program assisted under this section.

''(d) GRANT REQUIREMENTS AND APPLICATIONS.—

''(1) GRANT REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c). The Secretary shall make the grants for periods of not more than 5 years.

''(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining 2 or more of the activities described in subsection (c) over a period of more than 1 year.

''(C) PROGRESS.—The Secretary shall make a payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant period only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

''(2) DISSEMINATION GRANTS.—

''(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

''(B) DETERMINATION.—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

''(i) has been adequately reviewed;

''(ii) has demonstrated educational merit; and

''(iii) can be replicated.

''(3) APPLICATION.—

''(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

''(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

''(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

''(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

''(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, which may include a program that has been modified to be culturally appropriate for students who will be served;

''(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

''(v) such other assurances and information as the Secretary may reasonably require.

''(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grant recipient under this subpart for any fiscal year may be used to pay for administrative costs.

''SEC. 7122. PROFESSIONAL DEVELOPMENT.

''(a) PURPOSES.—The purposes of this section are—

''(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

''(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

''(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

''(b) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means a consortium of—

''(1) a State or local educational agency; and

''(2) an institution of higher education (including an Indian institution of higher education) or an Indian tribe or organization.

''(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities with applications approved under subsection (e) to enable such entities to carry out the activities described in subsection (d).

''(d) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—Grant funds made available under subsection (c) shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support.

''(2) SPECIAL RULES.—

''(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant awarded under subsection (c) may be in-service or pre-service training.

''(B) PROGRAM.—For individuals who are being trained to enter any field other than education, the training received pursuant to a grant awarded under subsection (c) shall be in a program that results in a graduate degree.

''(e) APPLICATION.—Each eligible entity desiring a grant under subsection (c) shall submit an application to the Secretary at such

time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

''(f) SPECIAL RULE.—In awarding grants under subsection (c), the Secretary—

''(1) shall consider the prior performance of an eligible entity; and

''(2) may not limit eligibility to receive a grant under subsection (c) on the basis of—

''(A) the number of previous grants the Secretary has awarded such entity; or

''(B) the length of any period during which such entity received such grants.

''(g) GRANT PERIOD.—Each grant awarded under subsection (c) shall be awarded for a program of activities of not more than 5 years.

''(h) SERVICE OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives pre-service training pursuant to a grant awarded under subsection (c)—

''(A) perform work—

''(i) related to the training received under this section; and

''(ii) that benefits Indian people; or

''(B) repay all or a prorated part of the assistance received for the training.

''(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of the pre-service training shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

''(i) INSERVICE TRAINING FOR TEACHERS OF INDIAN CHILDREN.—

''(1) GRANTS AUTHORIZED.—In addition to the grants authorized by subsection (c), the Secretary may make grants to eligible consortia for the provision of high quality in-service training. The Secretary may make such a grant to—

''(A) a consortium of a tribal college and an institution of higher education that awards a degree in education; or

''(B) a consortium of—

''(i) a tribal college;

''(ii) an institution of higher education that awards a degree in education; and

''(iii) 1 or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

''(2) USE OF FUNDS.—

''(A) IN-SERVICE TRAINING.—A consortium that receives a grant under paragraph (1) shall use the grant funds only to provide high quality in-service training to teachers, including teachers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

''(B) COMPONENTS.—The training described in subparagraph (A) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

''(3) PREFERENCE FOR INDIAN APPLICANTS.—In applying section 7153 to this subsection, the Secretary shall give a preference to any consortium that includes 1 or more of the entities described in that section.

''SEC. 7123. FELLOWSHIPS FOR INDIAN STUDENTS.

''(a) FELLOWSHIPS.—

''(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

''(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

''(A) of not more than 4 academic years; and

''(B) that leads—

''(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, or a related field; or

''(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

''(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

''(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which such a fellowship recipient is pursuing a course of study, in lieu of tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to such recipient.

''(d) SPECIAL RULES.—

''(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the first fellowship.

''(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

''(A) the amount of the funding for the fellowship; and

''(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

''(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

''(e) SERVICE OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

''(A) perform work—

''(i) related to the training for which the individual receives the assistance under this section; and

''(ii) that benefits Indian people; or

''(B) repay all or a prorated portion of such assistance.

''(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

''(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

''SEC. 7124. GIFTED AND TALENTED INDIAN STUDENTS.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

''(1) establish 2 centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

''(2) support demonstration projects described in subsection (c).

''(b) ELIGIBLE ENTITIES.—The Secretary shall make grants, or enter into contracts, for the activities described in subsection (a), to or with—

''(1) 2 tribally controlled community colleges that—

''(A) are eligible for funding under the Tribally Controlled College or University Assistance Act of 1978; and

''(B) are fully accredited; or

''(2) if the Secretary does not receive applications that the Secretary determines to be approvable from 2 colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available through the grants made, or contracts entered into, by the Secretary under subsection (b) shall be used for—

''(A) the establishment of centers described in subsection (a); and

''(B) carrying out demonstration projects designed to—

''(i) address the special needs of Indian students in elementary schools and secondary schools who are gifted and talented; and

''(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

''(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (b) to carry out a demonstration project under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project.

''(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (b) may include—

''(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

''(i) identifying the emotional and psychosocial needs of such students; and

''(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

''(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines hold a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including—

''(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

''(ii) carrying out mentoring and apprenticeship programs;

''(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

''(D) the use of public television in meeting the special educational needs of such gifted and talented children;

''(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

''(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such

support services to the families of such children as are needed to enable such children to benefit from the project.

''(4) APPLICATION.—Each entity desiring a grant or contract under subsection (b) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

''(d) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (referred to individually in this section as a 'Bureau school') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

''(A) gifted and talented students;

''(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

''(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

''(D) mathematics and science education.

''(2) APPLICATIONS.—Each Bureau school desiring a grant to conduct 1 or more of the activities described in paragraph (1) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

''(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

''(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

''(5) GRANT PERIOD.—Subject to the availability of appropriations, a grant awarded under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

''(6) DISSEMINATION.—

''(A) COOPERATIVE EFFORTS.—The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

''(B) REPORT.—The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

''(7) EVALUATION COSTS.—

''(A) DIVISION.—The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under subsection (a).

''(B) GRANTS AND CONTRACTS.—If no funds are provided under subsection (b) for—

''(i) the evaluation of activities assisted under paragraph (1);

''(ii) technical assistance and coordination with respect to such activities; or

''(iii) the dissemination of the evaluations referred to in clause (i),

the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

''(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

''SEC. 7125. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

''(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

''(2) develop education codes for schools within the territorial jurisdiction of the tribe;

''(3) provide support services and technical assistance to schools serving children of the tribe; and

''(4) perform child-find screening services for the preschool-aged children of the tribe to—

''(A) ensure placement in appropriate educational facilities; and

''(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

''(b) PERIOD OF GRANT.—Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

''(c) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

''(2) CONTENTS.—Each application described in paragraph (1) shall contain—

''(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

''(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

''(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

''(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

''(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

''(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

''(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Education Amendments of 1978.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Education to carry out this section $3,000,000 for each of fiscal years 2002 through 2008.

''Subpart 3—Special Programs Relating to Adult Education for Indians

''SEC. 7131. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

''(a) IN GENERAL.—The Secretary shall make grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

''(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

''(2) to assist in the establishment and operation of programs that are designed to stimulate—

''(A) the provision of basic literacy opportunities for all nonliterate Indian adults; and

''(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

''(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

''(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

''(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

''(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

''(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

''(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

''(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

''(d) APPLICATIONS.—

''(1) IN GENERAL.—Each entity desiring a grant or contract under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

''(2) CONTENTS.—Each application described in paragraph (1) shall contain—

''(A) a statement describing the activities to be conducted and the objectives to be achieved under the grant or contract; and

''(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant or contract are achieved.

''(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates that—

''(A) there has been adequate participation, by the individuals to be served and the appropriate tribal communities, in the planning and development of the activities to be assisted; and

''(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

''(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

''(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.

''Subpart 4—National Research Activities

''SEC. 7141. NATIONAL ACTIVITIES.

''(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 7162(b) for each fiscal year to—

''(1) conduct research related to effective approaches for the education of Indian children and adults;

''(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

''(3) collect and analyze data on the educational status and needs of Indians; and

''(4) carry out other activities that are consistent with the purpose of this part.

''(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

''(c) COORDINATION.—Research activities supported under this section—

''(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office of Educational Research and Improvement; and

''(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

''(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to an entity through a grant, contract, or agreement made or entered into under this subpart for a fiscal year may be used to pay for administrative costs.

''Subpart 5—Federal Administration

''SEC. 7151. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

''(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (referred to in this section as the 'Council'), which shall—

''(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and Indian organizations; and

''(2) represent different geographic areas of the United States.

''(b) DUTIES.—The Council shall—

''(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

''(A) with respect to which the Secretary has jurisdiction; and

''(B)(i) that includes Indian children or adults as participants; or

''(ii) that may benefit Indian children or adults;

''(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

''(3) prepare and submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

''(A) any recommendations that the Council considers to be appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

''(B) recommendations concerning the funding of any program described in subparagraph (A).

''SEC. 7152. PEER REVIEW.

''The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4.

''SEC. 7153. PREFERENCE FOR INDIAN APPLICANTS.

''In making grants and entering into contracts or cooperative agreements under subpart 2, 3, or 4, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

''SEC. 7154. MINIMUM GRANT CRITERIA.

''The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or 3 unless the application is for a grant, contract, or cooperative agreement that is—

''(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

''(2) based on relevant research findings.

''Subpart 6—Definitions; Authorizations of Appropriations

''SEC. 7161. DEFINITIONS.

''In this part:

''(1) ADULT.—The term 'adult' means an individual who—

''(A) has attained age 16; or

''(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

''(2) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

''(A) provided at public expense, under public supervision and direction, and without tuition charge; and

''(B) provided as elementary or secondary education in the applicable State or to preschool children.

''(3) INDIAN.—The term 'Indian' means an individual who is—

''(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

''(i) any tribe or band terminated since 1940; and

''(ii) any tribe or band recognized by the State in which the tribe or band resides;

''(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

''(C) an individual who is considered by the Secretary of the Interior to be an Indian for any purpose;

''(D) an Eskimo, Aleut, or other Alaska Native (as defined in section 7306); or

''(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the 'Improving America's Schools Act of 1994' (108 Stat. 3518).

''SEC. 7162. AUTHORIZATIONS OF APPROPRIATIONS.

''(a) SUBPART 1.—There are authorized to be appropriated to the Secretary of Education to carry out subpart 1 $93,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) SUBPARTS 2 THROUGH 4.—There are authorized to be appropriated to the Secretary of Education to carry out subparts 2, 3, and 4 $20,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART B—NATIVE HAWAIIAN EDUCATION

''SEC. 7201. SHORT TITLE.

''This part may be cited as the 'Native Hawaiian Education Act'.

''SEC. 7202. FINDINGS.

''Congress finds the following:

''(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

''(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

''(3) A unified monarchal government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

''(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

''(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

''(6) In 1898, the joint resolution entitled 'Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from the lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

''(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

''(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

''(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.'.

''(10) Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

''(11) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', the United States also ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

''(12) The United States has recognized and reaffirmed that—

''(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

''(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

''(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawai'i;

''(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

''(E) the aboriginal, indigenous people of the United States have—

''(i) a continuing right to autonomy in their internal affairs; and

''(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

''(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

''(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

''(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

''(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

''(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

''(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

''(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

''(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

''(H) the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

''(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

''(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their unique cultural situation, such as different learning styles and low self-image.

''(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

''(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

''(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

''(i) late or no prenatal care;

''(ii) high rates of births by Native Hawaiian women who are unmarried; and

''(iii) high rates of births to teenage parents;

''(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

''(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

''(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

''(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

''(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed 4 or more years of college;

''(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

''(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

''(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawai'i; and

''(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

''(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

''(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawai'i.

''(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

''(19) Following the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawai'i, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo nō ke ola; I ka 'ōlelo nō ka make. In the language rests life; In the language rests death.'.

''(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

''(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

''(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language;

''(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system; and

''(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program.

''SEC. 7203. PURPOSES.

''The purposes of this part are to—

''(1) authorize and develop innovative educational programs to assist Native Hawaiians;

''(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

''(3) supplement and expand programs and authorities in the area of education to further the purposes of this title; and

''(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

''SEC. 7204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

''(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (referred to in this part as the 'Education Council').

''(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 21 members, unless otherwise determined by a majority of the council.

''(c) CONDITIONS AND TERMS.—

''(1) CONDITIONS.—At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawai'i Office of Hawaiian Affairs shall serve as a member of the Education Council.

''(2) APPOINTMENTS.—The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

''(3) TERMS.—Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

''(4) COUNCIL DETERMINATIONS.—Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

''(d) NATIVE HAWAIIAN EDUCATION COUNCIL GRANT.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

''(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part;

''(2) assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education;

''(3) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity; and

''(4) make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

''(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

''(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i), to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

''(2) ANNUAL REPORT.—The Education Council shall prepare and submit to the Secretary an annual report on the Education Council's activities.

''(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary determines to be appropriate, in a manner that supports the distinct needs of each island council.

''(f) ESTABLISHMENT OF ISLAND COUNCILS.—

''(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (referred to individually in this part as an 'island council') for the following islands:

''(A) Hawai'i.

''(B) Maui.

''(C) Moloka'i.

''(D) Lana'i.

''(E) O'ahu.

''(F) Kaua'i.

''(G) Ni'ihau.

''(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of individuals concerned with the educational needs of all age groups, from children in preschool through adults. At least ¾ of the members of each island council shall be Native Hawaiians.

''(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often than 4 times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

''(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for service on the Education Council and each island council, respectively.

''(i) REPORT.—Not later than 4 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $300,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years. Funds appropriated under this subsection shall remain available until expended.

''SEC. 7205. PROGRAM AUTHORIZED.

''(a) GENERAL AUTHORITY.—

''(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make direct grants to, or enter into contracts with—

''(A) Native Hawaiian educational organizations;

''(B) Native Hawaiian community-based organizations;

''(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

''(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C),

to carry out programs that meet the purposes of this part.

''(2) PRIORITIES.—In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

''(A) beginning reading and literacy among students in kindergarten through third grade;

''(B) the needs of at-risk children and youth;

''(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

''(D) the use of the Hawaiian language in instruction.

''(3) AUTHORIZED ACTIVITIES.—Activities provided through programs carried out under this part may include—

''(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

''(B) the operation of family-based education centers that provide such services as—

''(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

''(ii) preschool programs for Native Hawaiians; and

''(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

''(C) activities that enhance beginning reading and literacy in either the Hawaiian or the English language among Native Hawaiian students in kindergarten through third grade and assistance in addressing the distinct features of combined English and Hawaiian literacy for Hawaiian speakers in fifth and sixth grade;

''(D) activities to meet the special needs of Native Hawaiian students with disabilities, including—

''(i) the identification of such students and their needs;

''(ii) the provision of support services to the families of those students; and

''(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act;

''(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

''(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

''(ii) activities that involve the parents of those students in a manner designed to assist in the students' educational progress;

''(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

''(G) professional development activities for educators, including—

''(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

''(ii) in-service programs to improve the ability of teachers who teach in schools with concentrations of Native Hawaiian students to meet those students' unique needs; and

''(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

''(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities

through the coordination of public and private programs and services, including—

''(i) preschool programs;

''(ii) after-school programs; and

''(iii) vocational and adult education programs;

''(I) activities to enable Native Hawaiians to enter and complete programs of postsecondary education, including—

''(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

''(ii) family literacy services;

''(iii) counseling and support services for students receiving scholarship assistance;

''(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

''(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

''(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

''(K) other research and evaluation activities related to programs carried out under this part; and

''(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

''(4) SPECIAL RULE AND CONDITIONS.—

''(A) INSTITUTIONS OUTSIDE HAWAII.—The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawai'i from receiving a scholarship pursuant to paragraph (3)(I).

''(B) SCHOLARSHIP CONDITIONS.—The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

''(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grant recipient under this section for any fiscal year may be used for administrative purposes.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $28,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years. Funds appropriated under this subsection shall remain available until expended.

"SEC. 7206. ADMINISTRATIVE PROVISIONS.

''(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

''(b) SPECIAL RULE.—Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

"SEC. 7207. DEFINITIONS.

''In this part:

''(1) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

''(A) a citizen of the United States; and

''(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

''(i) genealogical records;

''(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification; or

''(iii) certified birth records.

''(2) NATIVE HAWAIIAN COMMUNITY-BASED ORGANIZATION.—The term 'Native Hawaiian community-based organization' means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

''(3) NATIVE HAWAIIAN EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian educational organization' means a private nonprofit organization that—

''(A) serves the interests of Native Hawaiians;

''(B) has Native Hawaiians in substantive and policymaking positions within the organization;

''(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

''(D) has demonstrated expertise in the education of Native Hawaiian youth; and

''(E) has demonstrated expertise in research and program development.

''(4) NATIVE HAWAIIAN LANGUAGE.—The term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

''(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means a private nonprofit organization that—

''(A) serves the interests of Native Hawaiians;

''(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

''(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

''(6) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

"PART C—ALASKA NATIVE EDUCATION

"SEC. 7301. SHORT TITLE.

''This part may be cited as the 'Alaska Native Educational Equity, Support, and Assistance Act'.

"SEC. 7302. FINDINGS.

''Congress finds the following:

''(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being, and preservation of the culture of Alaska Natives.

''(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

''(3) Alaska Native children enter and exit school with serious educational handicaps.

''(4) The educational achievement of Alaska Native children is far below national norms. Native performance on standardized tests is low, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

''(5) The programs authorized in this title, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

''(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural Alaska and Alaska villages should be addressed through the development and implementation of innovative, model programs in a variety of areas.

''(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. 7303. PURPOSES.

''The purposes of this part are to—

''(1) recognize the unique educational needs of Alaska Natives;

''(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

''(3) supplement programs and authorities in the area of education to further the objectives of this part; and

''(4) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

"SEC. 7304. PROGRAM AUTHORIZED.

''(a) GENERAL AUTHORITY.—

''(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and consortia of such organizations and entities to carry out programs that meet the purposes of this part.

''(2) PERMISSIBLE ACTIVITIES.—Activities provided through programs carried out under this part may include—

''(A) the development and implementation of plans, methods, and strategies to improve the education of Alaska Natives;

''(B) the development of curricula and educational programs that address the educational needs of Alaska Native students, including—

''(i) curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives;

''(ii) instructional programs that make use of Native Alaskan languages; and

''(iii) networks that introduce successful programs, materials, and techniques to urban and rural schools;

''(C) professional development activities for educators, including—

''(i) programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students;

''(ii) in-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students; and

''(iii) recruitment and preparation of teachers who are Alaska Native, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction in Alaska;

''(D) the development and operation of home instruction programs for Alaska Native preschool children, the purpose of which is to ensure the active involvement of parents in their children's education from the earliest ages;

''(E) family literacy services;

''(F) the development and operation of student enrichment programs in science and mathematics that—

''(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter secondary school, to excel in science and math; and

''(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the programs;

''(G) research and data collection activities to determine the educational status and needs of Alaska Native children and adults;

''(H) other research and evaluation activities related to programs carried out under this part; and

''(I) other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

''(3) HOME INSTRUCTION PROGRAMS.—Home instruction programs for Alaska Native preschool children carried out under paragraph (2)(D) may include—

''(A) programs for parents and their infants, from the prenatal period of the infant through age 3;

''(B) preschool programs; and

''(C) training, education, and support for parents in such areas as reading readiness, observation, story telling, and critical thinking.

''(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grant recipient under this section for any fiscal year may be used for administrative purposes.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $17,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''SEC. 7305. ADMINISTRATIVE PROVISIONS.

''(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

''(b) APPLICATIONS.—A State educational agency or local educational agency may apply for a grant or contract under this part only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

''(c) CONSULTATION REQUIRED.—Each applicant for a grant or contract under this part shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

''(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each applicant for a grant or contract under this part shall inform each local educational agency serving students who will participate in the program to be carried out under the grant or contract about the application.

''SEC. 7306. DEFINITIONS.

''In this part:

''(1) ALASKA NATIVE.—The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act.

''(2) ALASKA NATIVE ORGANIZATION.—The term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, or another organization that—

''(A) has or commits to acquire expertise in the education of Alaska Natives; and

''(B) has Alaska Natives in substantive and policymaking positions within the organization.''.

SEC. 702. CONFORMING AMENDMENTS.

(a) HIGHER EDUCATION ACT OF 1965.—Section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)) is amended—

(1) in paragraph (1), by striking ''section 9308'' and inserting ''section 7306''; and

(2) in paragraph (3), by striking ''section 9212'' and inserting ''section 7207''.

(b) PUBLIC LAW 88–210.—Section 116 of Public Law 88–210 (as added by section 1 of Public Law 105–332 (112 Stat. 3076)) is amended by striking ''section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

(c) CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998.—Section 116(a)(5) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2326(a)(5)) is amended by striking ''section 9212'' and all that follows and inserting ''section 7207 of the Native Hawaiian Education Act''.

(d) MUSEUM AND LIBRARY SERVICES ACT.—Section 261 of the Museum and Library Services Act (20 U.S.C. 9161) is amended by striking ''section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

(e) ACT OF APRIL 16, 1934.—Section 5 of the Act of April 16, 1934 (commonly known as the ''Johnson-O'Malley Act'') (88 Stat. 2213; 25 U.S.C. 456) is amended by striking ''section 9104(c)(4)'' and inserting ''section 7114(c)(4)''.

(f) NATIVE AMERICAN LANGUAGES ACT.—Section 103 of the Native American Languages Act (25 U.S.C. 2902) is amended—

(1) in paragraph (2), by striking ''section 9161(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7881(4))'' and inserting ''section 7161(3) of the Elementary and Secondary Education Act of 1965''; and

(2) in paragraph (3), by striking ''section 9212(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7912(1))'' and inserting ''section 7207 of the Elementary and Secondary Education Act of 1965''.

(g) WORKFORCE INVESTMENT ACT OF 1998.—Section 166(b)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2911(b)(3)) is amended by striking ''paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

(h) ASSETS FOR INDEPENDENCE ACT.—Section 404(11) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking ''section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

TITLE VIII—REPEALS

SEC. 801. REPEALS.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Titles IX through XIV (20 U.S.C. 7801 et seq., 8801 et seq.) are repealed.

(b) GOALS 2000: EDUCATE AMERICA ACT.—The Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.) is repealed.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. INDEPENDENT EVALUATION.

The Act (20 U.S.C. 6301 et seq.) (as amended by section 801(a)) is amended further by adding at the end the following:

''TITLE IX—MISCELLANEOUS PROVISIONS

''PART A—INDEPENDENT EVALUATION

''SEC. 9101. IN GENERAL.

''The Secretary is authorized to award a grant to the Board on Testing and Assessment of the National Research Council of the National Academy of Sciences to enable the Board to conduct, in consultation with the Department (and others that the Board determines appropriate), an ongoing evaluation, not to exceed 4 years in duration, of a representative sample of State and local educational agencies regarding high stakes assessments used by the State and local educational agencies. The evaluation shall be based on a research design determined by the Board, in consultation with others, that includes existing data, and the development of new data as feasible and advisable. The evaluation shall address, at a minimum, the 3 components described in section 9102.

''SEC. 9102. COMPONENTS EVALUATED.

''The 3 components of the evaluation described in section 9101 are as follows:

''(1) STUDENTS, TEACHERS, PARENTS, FAMILIES, SCHOOLS, AND SCHOOL DISTRICTS.—The intended and unintended consequences of the assessments on individual students, teachers, parents, families, schools, and school districts, including—

''(A) overall improvement or decline in what students are learning based on independent measures;

''(B) changes in course offerings, teaching practices, course content, and instructional material;

''(C) measures of teacher satisfaction with the assessments;

''(D) changes in rates of teacher and administrator turnover;

''(E) changes in dropout, grade retention, and graduation rates for students;

''(F) the relationship of student performance on the assessments to school resources, teacher and instructional quality, or such factors as language barriers or construct-irrelevant disabilities;

''(G) changes in the frequency of referrals for enrichment opportunities, remedial measures, and other consequences;

''(H) changes in student post-graduation outcomes, including admission to, and signs of success (such as reduced need for remediation services) at, colleges, community colleges, or technical school training programs;

''(I) cost of preparing for, conducting, and grading the assessments in terms of dollars expended by the school district and time expended by students and teachers;

''(J) changes in funding levels and distribution of instructional and staffing resources for schools based on the results of the assessments;

''(K) purposes for which the assessments or components of the assessments are used beyond what is required under part A of title I, and the consequences for students and teachers because of those uses;

''(L) differences in the areas studied under this section between high poverty and high concentration minority schools and school districts, and schools and school districts with lower rates of poverty and minority students; and

''(M) the level of involvement of parents and families in the development and implementation of the assessments and the extent to which the parents and families are informed of assessment results and consequences.

''(2) STUDENTS WITH DISABILITIES.—The intended and unintended consequences of the assessments for students with disabilities, including—

''(A) the overall improvement or decline in academic achievement for students with disabilities;

''(B) the numbers and characteristics of students with disabilities who are excluded from the assessments, and the number and type of modifications and accommodations extended;

''(C) changes in the rate of referral of students to special education;

''(D) changes in attendance patterns and dropout, retention, and graduation rates for students with disabilities;

''(E) changes in rates at which students with disabilities are retained in grade level;

''(F) changes in rates of transfers of students with disabilities to other schools or institutions; and

''(G) the level of involvement of parents and families of students with disabilities in the development and implementation of the assessments and the extent to which the parents and families are informed of assessment results and consequences.

''(3) LOW SOCIO-ECONOMIC STUDENTS, LIMITED ENGLISH PROFICIENT STUDENTS, AND MINORITY STUDENTS.—The intended and unintended consequences of the assessments for low socio-economic status students, limited English proficient students, and racial and ethnic minority students, independently and as compared to middle or high socio-economic status students, nonlimited English proficient students, and white students, including—

''(A) the overall improvement or decline in academic achievement for such students;

''(B) the numbers and characteristics of such students excused from taking the assessments, and the number and type of modifications and accommodations extended to such students;

''(C) changes in the rate of referral of such students to special education;

''(D) changes in attendance patterns and dropout and graduation rates for such students;

''(E) changes in rates at which such students are retained in grade level;

''(F) changes in rates of transfer of such students to other schools or institutions; and

''(G) the level of involvement of parents and families of low socio-economic students, limited English proficient students, and racial and ethnic minority students in the development and implementation of the assessments and the extent to which the parents and families are informed of assessment results and consequences.

''SEC. 9103. REPORTING.

''The Secretary shall make public annually the results of the evaluation carried out under this part and shall report the findings of the evaluation to Congress and to the States not later than 2 months after the completion of the evaluation.

''SEC. 9104. DEFINITIONS.

''In this part:

''(1) HIGH STAKES ASSESSMENT.—The term 'high stakes assessment' means a standardized test that is one of the mandated determining factors in making decisions concerning a student's promotion, graduation, or tracking.

''(2) STANDARDIZED TEST.—The term 'standardized test' means a test that is administered and scored under conditions uniform to all students so that the test scores are comparable across individuals.

''SEC. 9105. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $4,000,000 for fiscal year 2002. Such funds shall remain available until expended.''.

SA 359. Ms. COLLINS proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 177, strike lines 1 through 6, and insert the following:

''(3) To provide assistance to States and local educational agencies in selecting or developing screening instruments, rigorous diagnostic reading assessments, and classroom-based instructional assessments.

On page On page 177, line 19, insert ''educational agency'' after ''State''.

On page 178, strike lines 3 through 8, and insert the following:

''(1) IN GENERAL.—From the total amount made available to carry out this subpart for any fiscal year and not reserved under section 1226, the Secretary shall allot among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, in accordance with paragraph (2)—

''(A) 100 percent of such remaining amount for each of the fiscal years 2002 and 2003; and

''(B) 75 percent of such remaining amount for each of the fiscal years 2004 through 2008.

On page 179, line 19, insert ''number or'' after ''high''.

On page 180, line 7, insert ''number or'' after ''high''.

On page 180, strike lines 11 through 20, and insert the following:

''(5) STATE REQUIREMENT.—In distributing subgrant funds to local educational agencies, a State shall—

''(A) provide the funds in sufficient amounts to enable the local educational agencies to improve reading; and

''(B) provide the funds in amounts related to the number or percentage of students in kindergarten through grade 3 who are reading below grade level.

''(6) LOCAL ELIGIBILITY.—In distributing subgrant funds under this subsection, a local educational agency shall provide funds only to schools that—

On page 181, line 9, strike ''a'' and insert ''screening instruments,''

On page 181, lines 9 and 10, strike ''assessment'' and insert ''assessments, and classroom-based instructional assessments''.

On page 183, line 14, strike ''may'' and insert ''shall''.

On page 183, lines 15 and 16, strike ''or otherwise''.

On page 184, line 2, insert ''(including family literacy services)'' after ''approaches''.

On page 184, line 7, strike ''from rigorous diagnostic reading assessments''.

On page 184, line 14, strike ''the''.

On page 184, strike lines 16 and 17, and insert the following:

''(I) Reporting data for all students and categories of students identified under section 1111(b)(2)(B)(v).

On page 184, line 24, insert ''educational agency'' after ''State''.

On page 185, line 9, strike ''that receives a grant under this section''.

On page 185, line 10, strike ''15'' and insert ''100''.

On page 185, line 11, strike ''provided under the grant'' and insert ''made available under paragraph (1)''.

On page 186, line 4, strike ''may'' and insert ''shall''.

On page 186, line 5, strike ''or otherwise''.

On page 186, line 7, strike ''that''.

On page 186, line 8, strike ''receives a grant under this section''.

On page 186, lines 9 and 10, strike ''5 percent of the amount of the funds provided under the grant'' and insert ''25 percent of the amount of the funds made available under paragraph (1)''.

On page 187, line 13, strike ''(3)'' and insert ''(5)''.

On page 187, lines 15 and 16, strike ''that receives a grant under this section shall'' and insert ''may''.

On page 187, lines 15 and 16, strike ''5 percent of the amount of the funds provided under the grant'' and insert ''25 percent of the amount of the funds made available under paragraph (1)''.

On page 188, lines 5 and 6, strike ''from rigorous diagnostic reading assessments''.

On page 188, line 24, strike ''subsection (c)(7)(H)'' and insert ''subsections (c)(7) (H) and (I)''.

On page 189, line 7, strike ''section 1116(c)'' and insert ''subsection (c)(7)(I)''.

On page 189, beginning with line 20, strike all through page 190, line 18, and insert the following:

''(a) IN GENERAL.—For fiscal year 2004 and each succeeding fiscal year the Secretary is authorized to award grants, on a competitive basis according to the criteria described in subsection (b) (2) or (3), to any State educational agency that received a grant under section 1222, for the use specified in subsection (c).

''(b) AMOUNT AVAILABLE FOR GRANTS; CRITERIA FOR GRANTS.—

''(1) AMOUNT.—From the total amount made available to carry out this subpart for fiscal year 2004 or any succeeding fiscal year that is not used under section 1222 or reserved under section 1226, the Secretary shall award grants under this section according to the criteria described in paragraph (2) or (3).

''(2) CRITERIA FOR AWARDING COMPETITIVE GRANTS TO STATES.—In carrying out this section, the Secretary shall award grants to those State educational agencies that—

''(A) for 2 consecutive years, make or exceed adequate yearly progress in reading for all third graders, in the aggregate, who attend schools served by the local educational agencies receiving funding under this subpart;

''(B) for each of the same such consecutive 2 years, demonstrate that an increasing percentage of third graders in each of the groups described in section 1111(b)(2)(B)(v)(II) in the schools served by the local educational agencies receiving funds under this subpart are reaching the proficient level in reading; and

''(C) for each of the same such consecutive 2 years, demonstrate that schools receiving funds under this subpart are improving the reading skills of students in the first and second grades based on screening, diagnostic, or classroom-based instructional assessments.

''(3) INTERIM CRITERIA FOR AWARDING COMPETITIVE GRANTS TO STATES.—If a State has not defined adequate yearly progress and implemented an assessment of reading in grade 3 as required under subsection 1111(b), then the Secretary shall award grants to such State educational agency on the basis of evidence supplied by the State that, for 2 consecutive years, increasing percentages of students are reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(4) CONTINUATION OF PERFORMANCE AWARDS.—For any State that receives a competitive grant under this section, the Secretary shall make an award for each of the following, consecutive years that the State demonstrates it is continuing to meet the criteria described in paragraph (2) or (3).

''(5) DISTRIBUTION OF PERFORMANCE GRANTS.—The Secretary shall make a grant to each State with an application approved under this section in proportion to the number of poor children determined under section 1124(c)(1)(A) for the State as compared to the number of such poor children in all States with applications approved in that year.

On page 190, line 21, strike ''include in its application'' and insert ''submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall include''.

On page 191, beginning with line 1, strike all through page 191, line 10, and insert the following:

''(ii) Evidence that the State has met the criteria described in paragraph (2) or (3).

On page 191, line 11, strike ''(iv)'' and insert ''(iii)''.

On page 191, line 17, strike ''(v)'' and insert ''(iv)''.

Beginning on page 192, strike line 19 and all that follows through line 3 on page 193, and insert the following:

''(B) Evidence that a local educational agency has, for 2 consecutive years, made or exceeded adequate yearly progress in reading for all third graders, in the aggregate, who attend schools receiving funds under this subpart.

''(C) Evidence that a local educational agency has, for each of the same such consecutive 2 years, demonstrated that an increasing percentage of the third graders in each of the groups described in section 1111(b)(2)(B)(v)(II) in schools receiving funds under this subpart are reaching the proficient level in reading.

''(D) Evidence that a local educational agency has, for each of the same such consecutive 2 years, demonstrated that schools receiving funds under this subpart are improving the reading skills of students in the first and second grades based on screening, diagnostic, or classroom-based instructional assessments.

On page 193, between lines 19 and 20, insert the following:

''(5) INTERIM CRITERIA FOR DISTRIBUTING FUNDS.—If a State has not defined adequate yearly progress or implemented an assessment of reading in grade 3 as required under subsection 1111(b), then such State shall award grants, on a competitive basis according to the criteria described in paragraphs (4)(A), (E), (F), and (G), to local educational agencies that for 2 consecutive years increased the percentage of students reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

On page 194, strike lines 2 and 3, and insert the following:

''(a) APPLICATIONS.—

''(1) IN GENERAL.—A State educational agency that desires to receive a grant under section 1222 shall submit an application to

On page 194, between lines 6 and 7, insert the following:

''(2) SPECIAL APPLICATION PROVISIONS.—For those States that have received a grant under part C of title II (as such part was in effect on the day preceding the date of enactment of the Better Education for Students and Teachers Act), the Secretary shall establish a modified set of requirements for an application under this section that takes into account the information already submitted and approved under that program and minimizes the duplication of effort on the part of such States.

On page 195, line 17, insert ''Federal,'' after ''other''.

On page 201, between lines 13 and 14, insert the following:

''SEC. 1225. ACCOUNTABILITY FOR RESULTS.

''(a) STATE ACCOUNTABILITY.—

''(1) REDUCTIONS.—If the Secretary makes the determination described in paragraphs (2) or (3) for 2 consecutive years, then the Secretary shall reduce the size of a State's grant under this subpart for the subsequent fiscal year.

''(2) DETERMINATION.—The determination referred to in paragraph (1) is the determination, made on the basis of data from the State assessment system described in section 1111, that a State—

''(A) failed to make adequate yearly progress in reading (as defined in the State's plan under section 1111) for all third graders, in the aggregate, who attend schools receiving funds under this subpart; and

''(B) failed to increase the percentage of third graders within each of the groups described in section 1111(b)(2)(B)(v)(II) who attend schools receiving funds under this subpart in reaching the proficient level in reading as compared to the previous school year.

''(3) INTERIM CRITERIA FOR DETERMINATION.—If a State has not defined adequate yearly progress and implemented an assessment of reading in grade 3 as required under subsection 1111(b), then the determination referred to in paragraph (1) is the determination that such State failed to increase the percentage of students reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(4) CONTINUED REDUCTIONS.—If the Secretary makes the determination described in paragraph (2) or (3) for a third or subsequent consecutive year, then the Secretary shall continue to reduce a States's grant under this subpart in each such consecutive year.

''(b) LOCAL EDUCATIONAL AGENCY ACCOUNTABILITY.—

''(1) REDUCTIONS.—If the State educational agency makes the determination described in paragraph (2) or (3) for a local educational agency receiving funds under this subpart for 2 consecutive years, then the State shall make that local educational agency a priority for professional development and technical assistance provided under section 1222(d) (3) and (4).

''(2) DETERMINATION.—The determination referred to in paragraph (1) is the determination, made on the basis of data from the State assessment system described in section 1111, that a local educational agency—

''(A) failed to make adequate yearly progress in reading (as defined in the State plan under section 1111) for all third graders, in the aggregate, who attend schools that are served by the agency and receive funds under this subpart; and

''(B) failed to increase the percentage of third graders, within each of the groups described in section 1111(b)(2)(B)(v)(II), who attend schools that are served by the agency and receive funds under this subpart, reaching the proficient level in reading as compared to the previous school year.

''(3) INTERIM CRITERIA FOR DETERMINATION.—If a State has not defined adequate yearly progress and implemented an assessment of reading in grade 3 as required under subsection 1111(b), then the determination referred to in paragraph (1) is the determination that a local educational agency failed to increase the percentage of students reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(4) CONTINUED REDUCTIONS.—If the State makes the determination described in paragraph (2) for a third or subsequent consecutive year, then the State shall continue to provide professional development and technical assistance and may require the local educational agency to institute a new reading curriculum that has demonstrated success in improving the reading skills of students in kindergarten through third grade, replace school district or school staff involved in the planning or implementation of the reading curriculum, or take some other action or actions to address the cause or causes for such failure to demonstrate progress. If the local educational agency refuses to take such action, then the State may reduce or eliminate the grant to that local educational agency.

On page 201, line 14, strike ''1225'' and insert ''1226''.

On page 201, line 18, strike ''1226'' and insert ''1227''.

On page 201, line 21, strike ''1227'' and insert ''1228''.

On page 201, line 22, strike ''1226'' and insert ''1227''.

On page 201, line 23, strike ''1225'' and insert ''1226''.

On page 202, line 4, strike ''and''.

On page 202, line 8, strike the period and insert ''; and''.

On page 202, between lines 8 and 9, insert the following:

''(3) shall, at a minimum, evaluate the impact of services provided to children under this subpart with respect to their referral to and eligibility for special education services under the Individuals with Disabilities Education Act (based on their difficulties learning to read).

On page 202, line 9, strike ''1227'' and insert ''1228''.

On page 202, line 11, strike ''1225'' and insert ''1226''.

On page 203, line 15, insert '', including through the Department and the National Center for Family Literacy'' after ''entities''.

On page 203, line 11, strike ''1228'' and insert ''1229''.

On page 205, line 22, strike ''and'' and insert ''or''.

SA 360. Mr. HARKIN (for himself, Mr. HAGEL, Mr. JEFFORDS, Mr. KENNEDY, Ms. STABENOW, Mr. DODD, Mr. REED, Mr. WELLSTONE, Mr. LEVIN, Mr. KOHL, Ms. MIKULSKI, Mr. BREAUX, Ms. COLLINS, Mr. CHAFEE, and Mr. JOHNSON) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

At the end of title IX, add the following:

SEC. ___. HELPING CHILDREN SUCCEED BY FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

(a) FINDINGS.—Congress makes the following findings:

(1) All children deserve a quality education.

(2) In Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania (334 F. Supp. 1247)(E. Dist. Pa. 1971), and Mills vs. Board of Education of the District of Columbia (348 F. Supp. 866)(Dist. D.C. 1972), the courts found that children with disabilities are entitled to an equal opportunity to an education under the 14th amendment of the Constitution.

(3) In 1975, Congress passed what is now known as the Individuals with Disabilities Education Act (referred to in this section as ''IDEA'') (20 U.S.C. 1400 et seq.) to help States provide all children with disabilities a free, appropriate public education in the least restrictive environment. At full funding, Congress contributes 40 percent of the average per pupil expenditure for each child with a disability served.

(4) Before 1975, only ⅕ of the children with disabilities received a formal education. At that time, many States had laws that specifically excluded many children with disabilities, including children who were blind, deaf, or emotionally disturbed, from receiving such an education.

(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,400,000 children 6 to 21 years of age.

(6) IDEA enables children with disabilities to be educated in their communities, and thus, has assisted in dramatically reducing the number of children with disabilities who must live in State institutions away from their families.

(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.

(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.

(9) The overall effectiveness of IDEA depends upon well trained special education

and general education teachers, related services personnel, and other school personnel. Congress recognizes concerns about the nationwide shortage of personnel serving students with disabilities and the need for improvement in the qualifications of such personnel.

(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.

(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.

(12) Changes made in 1997 also addressed the needs of those children whose behavior impedes learning by implementing behavioral assessments and intervention strategies to ensure that they receive appropriate supports in order to receive a quality education.

(13) IDEA requires a full partnership between parents of children with disabilities and education professionals in the design and implementation of the educational services provided to children with disabilities.

(14) While the Federal Government has more than doubled funding for part B of IDEA since 1995, the Federal Government has never provided more than 15 percent of the maximum State grant allocation for educating children with disabilities.

(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.

(b) LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—Clauses (i) and (ii) of section 613(a)(2)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)(C)) is amended to read as follows:

''(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 55 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for fiscal year 2001, except where a local educational agency shows that it is meeting the requirements of this part, the local educational agency may petition the State to waive, in whole or in part, the 55 percent cap under this clause.

''(ii) Notwithstanding clause (i), if the Secretary determines that a local educational agency is not meeting the requirements of this part, the Secretary may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, and may redirect the use of those funds to other educational programs within the local educational agency.''.

(c) FUNDING.—Section 611(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(j)) is amended to read as follows:

''(j) FUNDING.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated, and there are appropriated—

''(1) $8,823,685,000 for fiscal year 2002;
''(2) $11,323,685,000 for fiscal year 2003;
''(3) $13,823,685,000 for fiscal year 2004;
''(4) $16,323,685,000 for fiscal year 2005;
''(5) $18,823,685,000 for fiscal year 2006;
''(6) $21,067,600,000 for fiscal year 2007;
''(7) $21,742,019,000 for fiscal year 2008;
''(8) $22,423,068,000 for fiscal year 2009;
''(9) $23,095,622,000 for fiscal year 2010; and
''(10) $23,751,456,000 for fiscal year 2011.''.

SA 361. Mr. JEFFORDS (for himself and Mr. BOND) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 47, beginning with line 13, strike all through page 48, line 14, and insert the following:

''(i) a State may defer the commencement, or suspend the administration, of the assessments described in this paragraph, that were not required prior to the date of enactment of the Better Education for Students and Teachers Act, for 1 year, for each year for which the amount appropriated for grants under section 6203(a) is less than—

''(I) $370,000,000 for fiscal year 2002;
''(II) $380,000,000 for fiscal year 2003;
''(III) $390,000,000 for fiscal year 2004;
''(IV) $400,000,000 for fiscal year 2005;
''(V) $410,000,000 for fiscal year 2006;
''(VI) $420,000,000 for fiscal year 2007; and
''(VII) $430,000,000 for fiscal year 2008; and

''(ii) the Secretary may permit a State to commence the assessments, that were required by amendments made to this paragraph by the Better Education for Students and Teachers Act, in school year 2006–2007, if the State demonstrates to the Secretary that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous or unforeseen decline in the financial resources of the local educational agency or school, prevent full implementation of the assessments in school year 2005–2006 and that the State will administer such assessments during school year 2006–2007.

On page 778, strike lines 5 through 10, and insert the following:

''(a) GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.—

''(1) STATE GRANTS AUTHORIZED.—From amounts appropriated under paragraph (3) the Secretary shall award grants to States to enable the States to pay the costs of—

''(A) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act; and

''(B) other activities described in this part or related to ensuring accountability for results in the State's public elementary schools or secondary schools, and local educational agencies, such as—

''(i) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

''(ii) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

''(2) ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—From the amount appropriated to carry out this subsection for any fiscal year, the Secretary shall first allocate $3,000,000 to each State.

''(B) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

''(C) DEFINITION OF STATE.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

SA 362. Mr. TORRICELLI (for himself and Mr. FITZGERALD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. 902. MICROBIOLOGICAL PERFORMANCE STANDARDS FOR MEAT AND POULTRY FOR SCHOOL NUTRITION PROGRAMS.

Section 9(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)) is amended by adding at the end the following:

''(4) MICROBIOLOGICAL PERFORMANCE STANDARDS FOR MEAT AND POULTRY FOR SCHOOL NUTRITION PROGRAMS.—

''(A) IN GENERAL.—The Secretary shall ensure that all meat and poultry purchased for a program carried out under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) meets performance standards for microbiological hazards, as determined by the Secretary.

''(B) BASIS.—The standards shall be based on and comparable to the stringent requirements used by national purchasers of meat and poultry (including purchasers for fast food restaurants), as determined by the Secretary.

''(C) REVIEW.—The Secretary shall periodically review the standards to determine the impact of the standards on reducing human illness.''.

SA 363. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 67, line 18, strike ''and''.

On page 67, line 21, strike all after ''1118'' and insert ''; and''.

On page 67, between lines 21 and 22, insert the following:

''(11) where appropriate, a description of how the local educational agency will use funds under this part to support school year extension programs under section 1120C for low-performing schools.'';

On page 161, between lines 9 and 10, insert the following:

SEC. 120D. SCHOOL YEAR EXTENSION ACTIVITIES.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. SCHOOL YEAR EXTENSION ACTIVITIES.

''(a) FINDINGS.—Congress finds that—

''(1) the length of the academic year at most elementary and secondary schools in the United States consists of approximately 175 to 180 academic days, while the length of the academic years at elementary and secondary schools in a majority of the other industrialized countries consists of approximately 190 to 240 academic days;

''(2) eighth-grade students from the United States have scored lower, on average, in mathematics than students in Japan, France, and Canada;

''(3) various studies indicate that extending the length of the academic year at elementary and secondary schools results in a significant increase in actual student learning time, even when much of the time in the extended portion of the academic year is used for increased teacher training and increased parent-teacher interaction;

''(4) in the final 4 years of schooling, students in schools in the United States are required to spend a total of 1,460 hours on core academic subjects, which is less than half of

the 3,528 hours so required in Germany, the 3,280 hours so required in France, and the 3,170 hours so required in Japan;

''(5) American students' lack of formal schooling is not counterbalanced with more homework as only 29 percent of American students report spending at least 2 hours on homework per day compared to half of all European students;

''(6) extending the length of the academic year at elementary and secondary schools will lessen the need for review, at the beginning of an academic year, of course material covered in the previous academic year; and

''(7) in 1994, the Commission on Time and Learning recommended that school districts keep schools open longer to meet the needs of children and communities.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A local educational agency may use funds received under this part to—

''(A) to extend the length of the school year to 210 days, including necessary increases in compensation to employees;

''(B) study the feasibility of an effective method for extending learning time within or beyond the school day or year, including consultation with other schools or local educational agencies that have designed or implemented extended learning time programs;

''(C) conduct outreach to and consult with community members, including parents, students, and other stakeholders, such as tribal leaders, to develop a plan to extend learning time within or beyond the school day or year; and

''(D) research, develop, and implement strategies, including changes in curriculum and instruction, for maximizing the quality and percentage of common core learning time in the school day and extending learning time during or beyond the school day or year.

''(2) DEFINITION.—In this section, the term 'common core learning time' means high-quality, engaging instruction in challenging content in the core academic subjects of English, mathematics, science, reading, foreign languages, civics and government, economics, arts, history, and geography.

''(c) APPLICATION.—A local educational agency desiring to use funds under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the agency may require. Each application shall describe—

''(1) the activities to be carried out under this section;

''(2) any study or other information-gathering project for which funds will be used;

''(3) the strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize the percentage of common core learning time in the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

''(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

''(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

''(6) with respect to any application to carry out activities described in subsection (b)(1)(A), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

''(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this section;

''(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assistance under this section;

''(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

''(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this section;

''(11) the goals and objectives of the activities assisted under this section, including a description of how such activities will assist all students to reach State standards;

''(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

''(13) how the applicant will use funds provided under this section in coordination with funds provided under other Federal laws.

''(e) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section shall be construed to permit a local educational agency to carry out programs or activities that conflict with or otherwise supersede the provision of any collective bargaining agreement, memoranda of understanding, or other agreement between employees and the local educational agency.''.

SA 364. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. 902. CAMPUS FIRE SAFETY.

(a) SHORT TITLE.—This section may be cited as the ''Campus Fire Safety Right to Know Act''.

(b) DISCLOSURE OF FIRE SAFETY STANDARDS AND MEASURES WITH RESPECT TO CAMPUS STUDENT HOUSING FACILITIES.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended—

(1) in subsection (a)(1)—

(A) by striking ''and'' at the end of subparagraph (N);

(B) by striking the period at the end of subparagraph (O) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(P) the fire safety report prepared by the institution pursuant to subsection (h).''; and

(2) by adding at the end the following new subsection:

''(h) DISCLOSURE OF FIRE SAFETY STANDARDS AND MEASURES.—

''(1) FIRE SAFETY REPORTS REQUIRED.—Each eligible institution participating in any program under this title shall, beginning in academic year 2002-2003, and each academic year thereafter, prepare, publish, and distribute, through appropriate publications, including the Internet, or mailings, to all current students and employees, and upon request to any applicant for enrollment or employment, an annual fire safety report containing at least the following information with respect to the fire safety practices and standards of that institution:

''(A) A statement that identifies each campus student housing facility of the institution, and whether each such facility is equipped with a fire sprinkler system or another equally protective fire safety system.

''(B) Statistics concerning the occurrence at campus student housing facilities, during the 2 preceding academic years for which data are available, of fires and false fire alarms.

''(C) For each such occurrence, a statement of the human injuries or deaths and the structural damage caused by the occurrence.

''(D) Information regarding fire alarms, smoke alarms, the presence of adequate fire escape planning or protocols, rules on portable electrical appliances, smoking and open flames (such as candles), regular mandatory supervised fire drills, and planned and future improvement in fire safety with regard to campus student housing facilities.

''(E) Information about fire safety education and training provided to students, faculty, and staff, including the percentage of students, faculty, and staff who have participated in such education and training.

''(F) Information concerning fire safety at housing facilities owned or controlled by student fraternities and sororities that are recognized by the institution, including—

''(i) information reported to the institution under paragraph (5); and

''(ii) a statement concerning whether and how the institution works with recognized student fraternities and sororities to make housing facilities owned or controlled by such fraternities or sororities more fire safe.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to fire safety.

''(3) REPORTS.—Each institution participating in any program under this title shall make timely reports to the campus community on fires at campus student housing facilities that are reported to local fire departments and the incidence of false fire alarms at such facilities. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

''(4) LOGS.—Each institution participating in any program under this title shall make, keep, and maintain a log, written in a form that can be easily understood, recording all fires at campus student housing facilities reported to local fire departments, including the nature, date, time, and general location of each fire, and all false fire alarms. All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law, be open to public inspection.

''(5) FRATERNITIES AND SORORITIES.—Each institution participating in a program under this title shall request each fraternity and sorority that is recognized by the institution to collect and report to the institution the information described in subparagraphs (A) through (E) of paragraph (1), as applied to the fraternity or sorority, for each student housing facility owned or controlled by the fraternity or sorority, respectively.

''(6) REPORTS TO SECRETARY.—On an annual basis, each institution participating in any program under this title shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(B). The Secretary shall—

''(A) review such statistics;

''(B) make copies of the statistics submitted to the Secretary available to the public; and

''(C) in coordination with representatives of institutions of higher education, identify exemplary fire safety policies, procedures, and practices and disseminate information concerning those policies, procedures, and

practices that have proven effective in the reduction of fires in campus student housing facilities.

''(7) DEFINITION OF CAMPUS STUDENT HOUSING FACILITY.—In this subsection, the term 'campus student housing facility' means any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution for student housing.''.

(c) REPORT TO CONGRESS BY SECRETARY OF EDUCATION.—Not later than 1 year after the date of enactment of this section, the Secretary of Education shall prepare and submit to Congress a report containing—

(1) an analysis of the current status of fire safety systems in college and university campus student housing facilities, including sprinkler systems;

(2) an analysis of the appropriate fire safety standards to apply to these facilities, which the Secretary shall prepare after consultation with such fire safety experts, representatives of institutions of higher education, and other Federal agencies as the Secretary, in the Secretary's discretion, considers appropriate;

(3) an estimate of the cost of bringing all nonconforming campus student housing facilities up to current building codes or life safety codes; and

(4) recommendations from the Secretary concerning the best means of meeting fire safety standards in all college and university campus student housing facilities, including recommendations for methods to fund such costs.

SA 365. Mr. DODD (for himself, Ms. COLLINS, Ms. LANDRIEU, Mr. BINGAMAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. CORZINE, Mrs. MURRAY, Mr. LIEBERMAN, Mr. REED, Mrs. CLINTON, Mr. JEFFORDS, and Mr. KENNEDY) proposed an amendment to amendment SA 358 proposed by Mr. Jeffords to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 32, strike lines 2 through 6, and insert the following:

''(a) LOCAL EDUCATIONAL AGENCY GRANTS.—

''(1) SHORT TITLE.—This subsection may be cited as the 'Equal Educational Opportunity Act'.

''(2) AUTHORIZATION.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated—

''(A) $15,000,000,000 for fiscal year 2002;

''(B) $18,240,000,000 for fiscal year 2003;

''(C) $21,480,000,000 for fiscal year 2004;

''(D) $24,720,000,000 for fiscal year 2005;

''(E) $27,960,000,000 for fiscal year 2006;

''(F) $31,200,000,000 for fiscal year 2007;

''(G) $34,440,000,000 for fiscal year 2008;

''(H) $37,680,000,000 for fiscal year 2009;

''(I) $40,920,000,000 for fiscal year 2010; and

''(J) $44,164,000,000 for fiscal year 2011.

SA 366. Mr. CAMPBELL (for himself, Mr. GRASSLEY, Mr. AKAKA, Mr. INOUYE, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1; to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENIOR OPPORTUNITIES.

(a) TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS.—Section 1609(a)(2) (as amended in section 151) is further amended—

(1) in subparagraph (G), by striking ''and'' after the semicolon;

(2) in subparagraph (H), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(I) a description of how the organization will encourage and use appropriately qualified seniors as volunteers in activities carried out through the center.''.

(b) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; GOVERNOR'S PROGRAMS.—Section 4114(d) (as amended in section 401) is further amended—

(1) in paragraph (14), by striking ''and'' after the semicolon;

(2) in paragraph (15), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(15) drug and violence prevention activities that use the services of appropriately qualified seniors for activities that include mentoring, tutoring, and volunteering.''.

(c) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.—Section 4116(b) (as amended in section 401) is further amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring''; and

(B) in subparagraph (C)—

(i) in clause (i), by striking ''and'' after the semicolon;

(ii) in clause (ii), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(iii) drug and violence prevention activities that use the services of appropriately qualified seniors for such activities as mentoring, tutoring, and volunteering;'';

(2) in paragraph (4)(C), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring programs''; and

(3) in paragraph (8), by inserting '', which may involve appropriately qualified seniors working with students'' after ''settings''.

(d) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; FEDERAL ACTIVITIES.—Section 4121(a) (as amended in section 401) is further amended—

(1) in paragraph (10), by inserting '', including projects and activities that promote the interaction of youth and appropriately qualified seniors'' after ''responsibility''; and

(2) in paragraph (13), by inserting '', including activities that integrate appropriately qualified seniors in activities, such as mentoring, tutoring, and volunteering'' after ''title''.

(e) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; FORMULA GRANTS.—Section 7115(b) (as amended in section 701) is further amended—

(1) in paragraph (10), by striking ''and'' after the semicolon;

(2) in paragraph (11), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(12) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.''.

(f) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; SPECIAL PROGRAMS AND PROJECTS.—Section 7121(c)(1) (as amended in section 701) is further amended—

(1) in subparagraph (K), by striking ''or'' after the semicolon;

(2) in subparagraph (L), by striking ''(L)'' and inserting ''(M)''; and

(3) by inserting after subparagraph (K) the following:

''(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or''.

(g) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; PROFESSIONAL DEVELOPMENT.—The second sentence of section 7122(d)(1) (as amended in section 701) is further amended by striking the period and inserting '', and may include programs designed to train tribal elders and seniors.''.

(h) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; NATIVE HAWAIIAN PROGRAMS.—Section 7205(a)(3)(H) (as amended in section 701) is further amended—

(1) in clause (ii), by striking ''and'' after the semicolon;

(2) in clause (iii), by inserting ''and'' at the end; and

(3) by adding at the end the following:

''(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;''.

(i) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; ALASKA NATIVE PROGRAMS.—Section 7304(a)(2)(F) (as amended in section 701) is further amended—

(1) in clause (i), by striking ''and'' after the semicolon;

(2) in clause (ii), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(iii) may include activities that recognize and support the unique cultural and educational needs of Alaskan Native children, and incorporate appropriately qualified Alaskan Native elders and seniors;''.

SA 367. Mrs. FEINSTEIN (for herself, Mr. VOINOVICH, Mr. BAUCUS, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the ''Loan Forgiveness for Head Start Teachers Act of 2001''.

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C 1078–10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

''(1)(A) has been employed—

''(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and'';

(2) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (ii) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(3) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (ii) of subsection (b)(1)(A).''.

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078–10) is amended—

(1) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(2) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)'';

(3) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)''; and

(4) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

(d) DIRECT STUDENT LOAN FORGIVENESS.—

(1) IN GENERAL.—Section 460 of the Higher Education Act of 1965 (20 U.S.C 1087j) is amended—

(A) in subsection (b)(1), by amending subparagraph (A) to read as follows:

''(A)(i) has been employed—

''(I) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(II) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(ii)(I) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(II) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(III) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and'';

(B) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in subclause (II) of subsection (b)(1)(A)(i) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(C) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in subclause (II) of subsection (b)(1)(A)(i).''.

(2) CONFORMING AMENDMENTS.—Section 460 of such Act (20 U.S.C. 1087j) is amended—

(A) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(B) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)(I)'';

(C) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)(I)''; and

(D) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

SA 368. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 383, after line 21, add the following:

SEC. ___. MASTER TEACHER DEMONSTRATION PROJECT.

(a) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 3 of the Elementary and Secondary Education Act of 1965.

(2) MASTER TEACHER.—The term ''master teacher'' means a teacher who—

(A) is licensed or credentialed under State law in the subject or grade in which the teacher teaches;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is selected upon application, is judged to be an excellent teacher, and is recommended by administrators and other teachers who are knowledgeable of the individual's performance;

(D) at the time of submission of such application, is teaching and based in a public school;

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs mentoring, develops curriculum, and offers other professional development; and

(F) enters into a contract with the local educational agency to continue to teach and serve as a master teacher for at least 5 additional years.

A contract described in subparagraph (F) shall include stipends, employee benefits, a description of duties and work schedule, and other terms of employment.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(b) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Not later than July 1, 2002, the Secretary shall conduct a demonstration project under which the Secretary shall award competitive grants to local educational agencies to increase teacher salaries and employee benefits for teachers who enter into contracts with the local educational agencies to serve as master teachers.

(2) REQUIREMENTS.—In awarding grants under the demonstration project, the Secretary shall—

(A) ensure that grants are awarded under the demonstration project to a diversity of local educational agencies in terms of size of school district, location of school district, ethnic and economic composition of students, and experience of teachers; and

(B) give priority to local educational agencies in school districts that have schools with a high proportion of economically disadvantaged students.

(c) APPLICATIONS.—In order to receive a grant under the demonstration project, a local educational agency shall submit an application to the Secretary that contains—

(1) an assurance that funds received under the grant will be used in accordance with this section; and

(2) a detailed description of how the local educational agency will use the grant funds to pay the salaries and employee benefits for positions designated by the local educational agency as master teacher positions.

(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a local educational agency under the demonstration project unless the local educational agency agrees that, with respect to costs to be incurred by the agency in carrying out activities for which the grant was awarded, the agency shall provide (directly, through the State, or through a combination thereof) in non-Federal contributions an amount equal to the amount of the grant awarded to the agency.

(e) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than July 1, 2005, the Secretary shall conduct a study and transmit a report to Congress analyzing the results of the demonstration project conducted under this section.

(2) CONTENTS OF REPORT.—The report shall include—

(A) an analysis of the results of the project on—

(i) the recruitment and retention of experienced teachers;

(ii) the effect of master teachers on teaching by less experienced teachers;

(iii) the impact of mentoring new teachers by master teachers;

(iv) the impact of master teachers on student achievement; and

(v) the reduction in the rate of attrition of beginning teachers; and

(B) recommendations regarding—

(i) continuing or terminating the demonstration project; and

(ii) establishing a grant program to expand the project to additional local educational agencies and school districts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000, for the period of fiscal years 2002 through 2006.

SA 369. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 137, between lines 3 and 4, insert the following:

SEC. ___. LIMITATIONS ON FUNDS.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by inserting after section 1120B (20 U.S.C. 6323) the following:

''SEC. 1120C. LIMITATIONS ON FUNDS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, a local educational agency shall use funds received under this subpart only to provide academic instruction and services directly related to the instruction of students in preschool through grade 12 to assist eligible children to improve their academic achievement and to meet achievement standards established by the State.

''(b) PERMISSIBLE AND PROHIBITED ACTIVITIES.—In this section, the term 'academic instruction'—

''(1) includes—

''(A) the implementation of instructional interventions and corrective actions to improve student achievement;

''(B) the extension of academic instruction beyond the normal school day and year, including during summer school;

''(C) the employment of teachers and other instructional personnel, including providing teachers and instructional personnel with employee benefits;

''(D) the provision of instructional services to pre-kindergarten children to prepare such children for the transition to kindergarten;

''(E) the purchase of instructional resources, such as books, materials, computers, other instructional equipment, and wiring to support instructional equipment;

''(F) the development and administration of curricula, educational materials, and assessments; and

''(G) the transportation of students to assist the students in improving academic achievement; and

''(2) does not include—

''(A) the purchase or lease of privately owned facilities;

''(B) the purchase or provision of facilities maintenance, gardening, landscaping, or janitorial services, or the payment of utility costs;

''(C) the construction of facilities;

''(D) the acquisition of real property;

''(E) the payment of costs for food and refreshments;

''(F) the payment of travel and attendance costs at conferences or other meetings; or

''(G) the purchase or lease of vehicles.''.

SA 370. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 302, between lines 7 and 8, insert the following:

Part ___School Construction

SEC. ___01. SHORT TITLE.

This part may be cited as the ''Excellence in Education Act of 2001''.

SEC. ___02. DEFINITIONS.

In this part:

(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; SECRETARY.—The terms ''elementary school'', ''local educational agency'', ''secondary school'', and ''Secretary'' have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(2) CONSTRUCTION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''construction'' means—

(i) preparation of drawings and specifications for school facilities;

(ii) building new school facilities, or acquiring, remodeling, demolishing, renovating, improving, or repairing facilities to establish new school facilities; and

(iii) inspection and supervision of the construction of new school facilities.

(B) RULE.—An activity described in subparagraph (A) shall be considered to be construction only if the labor standards described in section 439 of the General Education Provisions Act (20 U.S.C. 1232b) are applied with respect to such activity.

(3) SCHOOL FACILITY.—The term ''school facility'' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility the primary purpose of which is the instruction of public elementary school or secondary school students. The term does not include an athletic stadium or any other structure or facility intended primarily for athletic exhibitions, contests, or games for which admission is charged to the general public.

SEC. ___03. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $1,000,000,000 for each of the fiscal years 2002 through 2006.

SEC. ___04. PROGRAM AUTHORIZED.

The Secretary is authorized to award grants to local educational agencies to enable the local educational agencies to carry out the construction of new public elementary school and secondary school facilities.

SEC. ___05. CONDITIONS FOR RECEIVING FUNDS.

In order to receive funds under this part a local educational agency shall meet the following requirements:

(1) Reduce class and school sizes for public schools served by the local educational agency as follows:

(A) Limit class size to an average student-to-teacher ratio of 20 to 1, in classes serving kindergarten through grade 6 students, in the schools served by the agency.

(B) Limit class size to an average student-to-teacher ratio of 28 to 1, in classes serving grade 7 through grade 12 students, in the schools served by the agency.

(C) Limit the size of public elementary schools and secondary schools served by the agency to—

(i) not more than 500 students in the case of a school serving kindergarten through grade 5 students;

(ii) not more than 750 students in the case of a school serving grade 6 through grade 8 students; and

(iii) not more than 1,500 students in the case of a school serving grade 9 through grade 12 students.

(2) Provide matching funds, with respect to the cost to be incurred in carrying out the activities for which the grant is awarded, from non-Federal sources in an amount equal to the Federal funds provided under the grant.

SEC. ___06. APPLICATIONS.

(a) IN GENERAL.—Each local educational agency desiring to receive a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) CONTENTS.—Each application shall contain—

(1) an assurance that the grant funds will be used in accordance with this part;

(2) a brief description of the construction to be conducted;

(3) a cost estimate of the activities to be conducted; and

(4) a description of available non-Federal matching funds.

SA 371. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 572, line 2, insert '', or to have possessed a weapon at a school,'' after ''to a school''.

On page 572, line 7, insert before the period the following: ''if such modification is in writing''.

On page 573, line 3, strike ''and''.

On page 573, line 9, strike ''and''.

On page 573, line 10, strike the period and insert ''; and''.

On page 573, between lines 10 and 11, insert the following:

''(D) the level of education of the students expelled from such school; and

''(E) a description of each modification of expulsion permitted under subsection (b)(1) with respect to such school; and

''(3) a description of all incidents involving weapons at local educational agency schools.''.

On page 573, between lines 13 and 14, insert the following:

''(f) DEFINITION.—In this section, the term 'school' means any setting that is under the control and supervision of the local education agency.

''(g) EXCEPTION.—Nothing in this section shall apply to a weapon if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.''.

On page 573, line 20, strike ''brings a firearm or weapon to a school'' and insert ''brings a weapon to a school, or is found to have possessed a weapon at a school,''.

On page 573, strike lines 22 through 25, and insert the following:

''(b) DEFINITIONS.—For the purpose of this section:

''(1) SCHOOL.—The term 'school' has the meaning given to such term by section 921(a) of title 18, United States Code.

''(2) WEAPON.—The term 'weapon' has the meaning given such term in section 4101(b)(3).''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the committee on Energy and Natural Resources.

The hearing will take place on Wednesday, May 9, 2001, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nominations of Francis S. Blake to be the Deputy Secretary of the Department of Energy, Robert Gordon Card to be the Under Secretary of the Department of Energy, Bruce Marshall Carnes to be the Chief Financial Officer for the Department of Energy, and David Garman to be the Assistant Secretary for Energy Efficiency and Renewable Energy for the Department of Energy.

For further information, please contact David Dye of the Committee staff at (202) 224–0624.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 10, 2001, immediately following a hearing by the Subcommittee on National Parks, Historic Preservation, and Recreation scheduled at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on H.R. 880, a bill to provide for all right, title, and interest in certain property in Washington County, UT, to be vested in the United States.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mike Menge (202) 224–9607.

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold hearings entitled ''Cross Border Fraud: Improving Transnational Law Enforcement.'' The upcoming hearings will examine the nature and scope of cross-border fraud problems and the state of binational U.S.-Canadian law enforcement coordination, and will explore what steps can be taken to fight such crime in the future.

The hearings will take place on Thursday, June 14 and Friday, June 15, 2001, at 9:30 a.m., each day, in room 342 of the Dirksen Senate Office Building. For further information, please contact Christopher A. Ford of the Subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 3, 2001, at 9:30 a.m., in open and closed sessions to receive testimony on the lessons learned from the attack on U.S.S. *Cole*, on the Report of the Crouch/Gehman Commission and on the Navy's Judge Advocate General manual investigation into the attack, including a review of appropriate standards of accountability for our military service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 3, 2001, at 9:30 a.m., on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 3 at 2:30 p.m., to conduct an oversight hearing. The committee will review FERC's April 26, 2001, order addressing wholesale electricity prices in California and the Western United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Subcommittee on Energy and Water Development of the Committee on Appropriations be authorized to meet during the session of the Senate on Thursday, May 3 at 9:30 a.m., to conduct a joint oversight hearing. The committee will receive testimony on the state of the nuclear power industry and the future of the industry in a comprehensive energy policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, May 3, 2001, at 10 a.m., for an oversight hearing on Federal election practices and procedures.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 3, 2001, at 10 a.m., in SD–226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, May 3, 2001, from 2:30 p.m.–5 p.m, in Dirksen 608 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration be authorized to meet to conduct a hearing on Thursday, May 3, 2001, at 2 p.m., in SD–226.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Frances Coleman and Andrew Hartman, both assigned to my staff, be granted the privilege of the floor during consideration of S. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERSONAL FINANCIAL DISCLOSURE

Financial Disclosure Reports required by the Ethics in Government Act of 1978, as amended and Senate Rule 34 must be filed no later than close of business on Tuesday, May 15, 2001. The reports must be filed with the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510. The Public Records office will be open from 8:00 a.m. until 6:00 p.m. to accept these filings, and will provide written receipts for Senators' reports. Staff members may obtain written receipts upon request. Any written request for an extension should be directed to the Select Committee on Ethics, 220 Hart Building, Washington, D.C. 20510.

All Senators' reports will be made available simultaneously on Thursday, June 14th. Any questions regarding the availability of reports should be directed to the Public Records office (224–0322). Questions regarding interpretation of the Ethics in Government Act of 1978 should be directed to the Select Committee on Ethics (224–2981).

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. JEFFORDS. Mr. President, in executive session, I ask unanimous consent that the Senate proceed to the consideration of the following nominations: Calendar Nos. 46, 66, 67, 68, 69, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the record, the President be immediately notified of the Senate's action, and the Senate then return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF DEFENSE

Charles S. Abell, of Virginia, to be an Assistant Secretary of Defense.

DEPARTMENT OF COMMERCE

Brenda L. Becker, of Virginia, to be an Assistant Secretary of Commerce.

Theodore William Kassinger, of Maryland, to be General Counsel of the Department of Commerce.

DEPARTMENT OF TRANSPORTATION

Michael P. Jackson, of Virginia, to be Deputy Secretary of Transportation.

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral

Rear Adm. (lh) David R. Nicholson, 0216
Rear Adm. (lh) Ronald F. Silva, 1219

PN193. Coast Guard nominations (167) beginning Quincey N. Adams, and ending Kathryn L. Wunderlich, which nominations were received by the Senate and appeared in the Congressional Record of March 19, 2001.

PN203. Coast Guard nominations (236) beginning Benes Z. Aldana, and ending Marshall E. Wright, which nominations were received by the Senate and appeared in the Congressional Record of March 22, 2001.

PN223. Coast Guard nominations (112) beginning Pauline F. Cook, and ending Tarik L. Williams, which nominations were received by the Senate and appeared in the Congressional Record of April 3, 2001.

NOMINATION OF CHARLES S. ABELL

Mr. WARNER. Mr. President, it is with mixed emotions that I come before my colleagues today to express my profound congratulations to Mr. Charles S. Abell on the occasion of his confirmation by the Senate as Assistant Secretary of Defense for Force

Management Policy. I have had the great pleasure and distinct honor to work with Charlie Abell for the past 8 years, during his service as a professional staff member on the Senate Armed Services Committee. While we are all extremely proud of him, it is difficult to see him go.

Charlie Abell began his service to country with a distinguished 26-year career in the U.S. Army. Charlie enlisted in the Army in 1966, and retired as a lieutenant colonel in 1992. During his military career, he served as both an infantry officer as well as a Cobra attack helicopter pilot. He was a highly decorated officer who led an infantry platoon, an infantry company, and attack helicopter units during two combat tours in Vietnam. Charlie has always been at the ''scene of action.''

Mr. Abell's decorations include the Legion of Merit, four Meritorious Service Medals, the Purple Heart, two bronze stars for Valor, 14 Air Medals, two for valor, the Army Commendation Medal for valor and the Combat Infantryman's Badge.

Following his successful Army career, Charlie joined the Senate Armed Services Committee staff. He has been a most valued member of our ''team''. Charlie has been the lead staff member for the Personnel Subcommittee for the past eight years, and has been responsible for a wide range of issues concerning military personnel and quality of life. His expertise and counsel have been invaluable to the members of the Armed Services Committee—and indeed the Senate as a whole—as we have worked over the past several years to reform the military retirement system, enhance military pay, improve the military health care system, and honor our commitment to all military retirees to provide health care for life. Charlie's achievements with our Committee have truly touched the lives of all members of the military services—Active Duty, Reserve Components and retirees—and their families as well. I offer my sincere gratitude for his outstanding work in these endeavors on behalf of myself and all of the members and staff of the Committee on Armed Services.

Today, Charlie Abell was confirmed by the U.S. Senate to serve in the position of Assistant Secretary of Defense for Force Management Policy. While it is difficult for us to lose such a valuable member of our committee staff, we are all very proud of Charlie and know that he will be a very important addition to Secretary Rumfeld's staff. We will miss his professionalism, his depth of knowledge, his humility, and most of all his friendship. Charlie is a true professional and will continue to serve his country, and the Department of Defense with honor and distinction. I wish he and his wife, Cathy, fair winds and following seas, and will truly miss daily interactions with this dear friend and outstanding American.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORIZING PRODUCTION OF DOCUMENTS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 82 submitted by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 82) to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs and representation by the Senate Legal Counsel.

There being no objection, the Senate proceeded to consider the resolution.

Mr. JEFFORDS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 82) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

ORDERS FOR FRIDAY, MAY 4, 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Friday, May 4. I further ask unanimous consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1, the education bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. JEFFORDS. For the information of all Senators, the Senate will resume the education bill tomorrow morning at 10 a.m. The next two amendments in order will be a Craig amendment and an amendment offered by Senator KENNEDY or his designee. Votes ordered on those amendments will be stacked to occur on Tuesday morning. On Monday, the Senate will consider the budget conference report beginning at 10 a.m. Monday afternoon the Senate will consider the Bolton nomination with both votes scheduled to occur in a stacked sequence beginning at 9:30 a.m. on Tuesday. The order of the votes on Tuesday morning is as follows: confirmation of the Bolton nomination; adoption of the budget conference report; the Craig amendment regarding ESEA funding; and the Kennedy or designee amendment. No votes will occur on Friday or Monday.

ADJOURNMENT

Mr. JEFFORDS. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:48 p.m., adjourned until Friday, May 4, 2001, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 3, 2001:

DEPARTMENT OF DEFENSE

CHARLES S. ABELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

DEPARTMENT OF COMMERCE

BRENDA L. BECKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

THEODORE WILLIAM KASSINGER, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

MICHAEL P. JACKSON, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) DAVID R. NICHOLSON, 0000
REAR ADM. (LH) RONALD F. SILVA, 0000

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING QUINCEY N. ADAMS, AND ENDING KATHRYN L. WUNDERLICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 19, 2001.

COAST GUARD NOMINATIONS BEGINNING BENES Z. ALDANA, AND ENDING MARSHALL E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 22, 2001.

COAST GUARD NOMINATIONS BEGINNING PAULINE F. COOK, AND ENDING TARIK L. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 3, 2001.