The Senate met at 9:30 a.m. and was called to order by the Honorable Jean Carnahan, a Senator from the State of Missouri.

PRAYER

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

Gracious Father, we praise You for Your love that embraces us and gives us security. Your joy that uplifts us and gives us resiliency. Your peace that floods our hearts and gives us serenity, and Your Spirit that fills us and gives us strength and endurance.

We dedicate this day to You. Help us to realize that it is by Your permission that we breathe our next breath and by Your grace that we are privileged to use all the gifts of intellect and judgment You provide. Bless the Senators as they continue to sort out the crucial issues of providing patients’ rights. Give them a perfect blend of humility and hope, so that they will know that You have given them all that they have and are and have chosen to bless them this day. We join with them in responding and committing ourselves to You. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable Jean Carnahan 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.

APPPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Byrd].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Jean Carnahan, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. Carnahan thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. Reid, Madam President, on behalf of Senator Daschle, the Senate is advised that we will have debate, the time equally divided between the two managers of the bill, on the McCain amendment. Following a vote on that amendment, we will turn to an amendment offered by the Senator from New Hampshire, Mr. Gregg, the manager of the bill. That matter will be debated this afternoon. We are going to be in session Monday afternoon for purposes of debating this matter, with further action on this bill Tuesday and the rest of the week until we complete this legislation.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BIPARTISAN PATIENT PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report. The bill clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

McCain amendment No. 809, to express the sense of the Senate with respect to the opportunity to participate in approved clinical trials and access to specialty care.

AMENDMENT NO. 809

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided between the Senator from Arizona, Mr. McCain, and the Senator from New Hampshire, Mr. Gregg, or their designees.

Mr. McCain amendment No. 809, to express the sense of the Senate with respect to the opportunity to participate in approved clinical trials and access to specialty care.

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
I am disappointed that the President issued a veto threat yesterday regarding our bipartisan bill protecting America’s patients. However, I continue to pledge my cooperation in any sincere effort to reach fair compromise on the outstanding issues that still divide us. Negotiations can continue. We will continue over the weekend, and into next week, in the continued hopes we can reach agreement.

I repeat, we are in agreement on the vast majority of issues. It would be a terrible shame for us to not be able to resolve those remaining differences.

But we cannot compromise on our resolve to return control of health care to medical professionals, and to hold insurers to the same standard of accountability to which doctors and nurses are held. That is all we are seeking and all that the American people expect from us, a fair and effective remedy to a grave national problem.

Following are some concerns that were also included in the veto threat regarding our bipartisan bill that do not accurately represent our legislation.

In the President’s threatened veto message, he said that the legislation will only serve to drive up costs and leave individuals without health insurance coverage.

The reality is, the year after Texas passed its liability protections, premiums actually decreased; and last year the number of people with insurance increased by over 200,000. In their annual report, the Census Bureau attributed a large portion of the increase in the number of insured Americans to the increase in employer-sponsored coverage.

As the Congressional Budget Office has stated:

[A] reliable estimate of the coverage declines associated with a mandate can only be determined by analyzing the specific legislative proposal.

No such analysis on the bill before the Senate has been produced.

In the Presidential statement, it said that our legislation circumvents the independent medical review process in favor of litigation.

The reality is, no patient and no physician wants to go to court just to seek the care they need or to avoid being harmed. Under our legislation, patients must exhaust internal and external appeals before going to court. That is why the appeal process is so long. If the appeals be exhausted, the sole exception is when death or irreparable injury is incurred as a result of the denial. Even in that case, either party can request the appeals process continue and the results of the process be considered in court.

In the Presidential statement, it said this legislation overturns more than 25 years of Federal law, and in so doing, would not ensure that “existing state law caps would apply to the broad, new causes of action in state courts.”

The reality is, the legislation corrects the unintended consequences of the 25-year-old loophole contained in ERISA, the Employee Retirement Income Security Act, which gives HMOs special legal protections—not enjoyed by any other industry—from legal recourse if they make medical decisions that result in injury or death. Our legislation merely accepts Chief Justice Rehnquist’s words that adoption of this sense-of-the-Senate provision effectively endorses the policy of the Federal Judicial Conference that “in any managed care legislation, the state courts be the primary forum for the resolution of personal injury claims arising from the denial of medical treatment should Congress determine that such legal recourse is warranted.”

I hope my friends on this side of the aisle will pay attention to Chief Justice Rehnquist’s words.

In so doing, this legislation simply returns to how this Nation has over seen disputes in the courts over the last 200 years and applied the same standards with which all other industries comply.

Finally, by deferring explicitly to State courts on medical decision disputes, this legislation specifically accepts tort reform and caps that States have adopted, all of which exceed any Federal tort reform currently in place.

The President’s statement goes on to say this legislation would allow courts to return control of health care to Federal level for violation of any duty under the plan, creating open-ended and unpredictable lawsuits against employers for administrative errors.

In reality, there would be no open-ended, unpredictable lawsuits as a consequence of this legislation. Plans would be free of any liability if they followed their own plan rules and did not make decisions that explicitly caused injury or death. Moreover, if they follow the internal appeals process provided for in this legislation, it is extremely unlikely that any business or plan would be exposed to any liability risk as soon as the Federal tort reform is in place.

The President’s statement said that the legislation would subject employers and unions to frequent litigation in State and Federal court under a vague standard of direct participation. The reality is, this legislation related to direct participation is neither vague nor would it subject employers to frequent litigation in State and Federal court. The bill language specifically states that direct participation is defined as “the actual working of [the] decision or in the actual level control in making [the] decision or in the [wrongful] conduct.”

This legislation specifically exempts businesses from liability of every type of action except specific actions that are the direct cause of harm to a patient.

We are having continuing negotiations to try to tighten further language to prevent employer liability.

Finally, the President’s statement says this legislation subjects physicians and all health care professionals to greater liability risk. My only answer to that: Read the bill. Section 302(a)(1) states that physicians, other health care professionals, insurance agents, and health care record keepers have explicitly been exempted from any new liability exposure. In fact, by extending accountability provisions to HMOs, this legislation will actually serve to protect physicians and other health care professionals from unwarranted, unnecessary liability exposure.

Once again, the critics need to read the bill before inaccurate charges are made.

Madam President, there is either a misunderstanding or a failure to comprehend what this legislation is all about in the message that was sent over and the threatened veto. Again, I urge all of our friends and adversaries of this bill to continue to negotiate, to continue to resolve the issues that exist between us so that we can come to closure on this.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, how much time is remaining now?

The ACTING PRESIDENT pro tempore. The sponsor has 19 minutes, and the opposition has 28 minutes.

Mr. KENNEDY. I yield myself 7 minutes.

The ACTING PRESIDENT pro tempore. From the sponsor’s time?

Mr. KENNEDY. Yes, from the sponsor’s time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, the sense-of-the-Senate we will vote on today is the critical issue. The Senate on record as supporting patients in two critical areas covered by our bill: Access to clinical trials and access to specialty care.

The reason this vote is critical is that adoption of this sense-of-the-Senate language effectively endorses the solid protections contained in the McCain-Edward-Kennedy bill and rejects the inadequate protections contained in the alternative legislation.

The President’s statement on the other side of the aisle started out rejecting the idea that managed care companies should be required to cover the routine doctor and hospital costs of quality clinical trials. Then they said they would support coverage of clinical trials, but only for cancer. Now they have finally endorsed the idea of covering clinical trials, but they continue to offer the American people coverage that is unconscionably delayed and that bars patients from some of the most crucial clinical trials—studies that involve the private sector that are not funded by the Government but are approved by the Food and Drug Administration.
Of course, this, too, represents a shift in position. Last year they were for coverage of FDA trials, but only for cancer patients. This sense-of-the-Senate makes clear that managed care companies should cover the routine doctor and hospital bills if they want to participate in it. If a patient has cancer, their insurance company should pay the routine doctor and hospital costs associated with the trial. I reviewed the comments my good friend Senator Frist made last night, and the sum and substance of it was that clinical trials are a wonderful thing but it might cost too much if insurance companies have to pay for routine doctor and hospital costs. So he was willing to cover some of the trials but not enough. Now of course this specter he has raised of the vast unknown mass of clinical trials out there ignores some fundamental facts. First, most studies have not found much difference between clinical trials and the cost of conventional care. Obviously, there are cases where a clinical trial can cost more, but there are also cases where it can cost less.

Second, Senator Frist talks as if we are proposing something novel and dangerous. The fact is that CBO found several years ago that insurance companies routinely pay these costs. They pay them 90 percent of the time. But managed care is cutting back on that wise policy and patients are being left to bear the burden.

So we are not talking about imposing something new. We are talking about preserving and restoring what is already there. We are simply extending to the patient and the doctor a policy that works well under Medicare.

One of the most fundamental parts of quality medical care is access to an appropriate, qualified specialist to treat serious complex conditions. This is also one of the areas in which the abuses of managed care have been most serious and widespread. Our legislation provides patients the opportunity to see a specialist outside the managed care network at no additional cost if no one in the network can meet their needs.

The legislation offered by Senator Frist purports to afford the same rights, but it essentially makes the plan the judge and jury of whether or not a non-network specialist is needed. The plan’s judgment is not appealable.

Senator McCain’s sense-of-the-Senate simply affirms the right to see a specialist outside of the network, if needed. It also affirms the right to appeal to an independent third party if the plan is a person about the need to go outside the plan.

These rights are especially critical to cancer patients. That is why cancer patients are specifically mentioned in the McCain sense-of-the-Senate. It is also why so many organizations representing cancer patients and their families have spoken out so strongly in support of our legislation.

The story of the young patient illustrates why these rights are so precious and why the passage of the McCain amendment is so critical. The family of Carly Christie was horrified when their 9-year-old daughter was diagnosed with a Wilms’ tumor, a rare and aggressive form of kidney cancer. They were relieved to learn that a facility close to their home in Woodside, CA, the Lucile Packard Children’s Hospital at Stanford University, was world renowned for its expertise and success in treating this rare and dangerous childhood cancer.

The Christies managed to scrape together the $50,000 they needed to pay for the operation themselves. Today, Carly is a cancer-free, healthy, happy teenager.

If the Christies had been less tenacious or had been unable to come up with the $50,000, there is a good chance Carly would be dead today. The Christies had faithfully paid their premiums to their HMO, but their HMO was not faithful to them when their daughter’s life was in jeopardy. The protections in our legislation would have avoided that situation.

No family should have to go through what the Christies did. No child should face a possible death sentence because an HMO thinks profits are more important than patients. The McCain amendment puts the Senate on record as saying that families such as the Christies should have the specific, fair appeal to an independent review agency to get the care their daughter needed.

The ACTING PRESIDENT pro tem. The Senator has used 7 minutes.

Mr. KENNEDY. Madam President, I withhold the rest of the time and hope the McCain amendment will be approved.

How much time remains on either side, Madam President?

The ACTING PRESIDENT pro tem. The proponents have 12 minutes. The opponents have 28 minutes.

Who yields time? If neither side yields time—

Mr. KENNEDY. Madam President, I yield 5 minutes to the Senator from North Carolina.

The ACTING PRESIDENT pro tem. The Senator from North Carolina is recognized.

Mr. EDWARDS. Madam President, I rise in support of the McCain amendment.

Before I get to that, I want to say a few words about a patient in North Carolina who has had problems with HMO health insurance coverage. Ethan Bedrick was a young boy who was born in 1992 in Charlotte, NC. Because of the circumstances surrounding his birth, unfortunately, Ethan was born with cerebral palsy. As a result, he was treated by a wide variety of health care providers—many specialists, doctors, pediatric specialists who tried to help Ethan and his family with Ethan’s problems.

Among the things they prescribed was therapy on a regular basis—physical therapy and other kinds of therapy—to help prevent the kinds of problems we often see with older persons who have cerebral palsy of becoming constricted, tightened up, and not able to use his limbs properly.

Every medical provider who made these recommendations to Ethan suggested that he needed this therapy and it was obvious that Ethan needed his ongoing care. All of the doctors who treated him, and there were a multitude of them, believed he needed this therapy. The only one who disagreed was his insurance company. That decision was made by a third party, sitting behind a desk somewhere many miles and many States away from Ethan.

This is a photograph of young Ethan. A result, it was necessary for Ethan’s case to be taken first to Federal district court, and then to be taken through an appeal that lasted a long time—2, 3 years, approximately.

After all that time and effort, Ethan was finally able to get the care he needed when a United States Court of Appeals in Richmond, VA, the fourth circuit, said the decision made by the insurance company was arbitrary, ridiculous, and completely inconsistent with any kind of medical standards because it was obvious that Ethan needed the therapy that all of his health care providers said he needed. In fact, the insurance company said: We don’t want Ethan to get this therapy. He is never going to walk. It is not going to do him any good. We are not going to pay for it.

Well, the Fourth Circuit Court of Appeals found, not surprisingly, that Ethan’s doctors, with training and experience in treating children in his condition, knew better than some insurance company clerk sitting behind a desk somewhere. Unfortunately, it took years to get this accomplished—years of being in court and years of effort by Ethan’s family.

Now, under our Bipartisan Patient Protection Act, would have had a right to an immediate internal review within the insurance company and, had that been unsuccessful, to an external independent review, where the decision would be made that he would have been successful since every single doctor in all areas of specialty treating Ethan said he needed this daily therapy to keep him from becoming bound up and constricted.

This is a perfect example of why we have to do something about what health insurance companies and HMOs are doing to people in this country.
Now, specifically to the amendment offered by my friend from Arizona. It is critically important that patients have access to all clinical trials, including FDA-approved clinical trials. The FDA-approved clinical trials are where much of the cutting edge research is being done in the field of cancer. For many patients around this country—I spoke of one yesterday—that is the place of last resort. They have nowhere else to go. When chemotherapy, surgery, all these other cancer treatments are not successful, they are left with one option, which is to participate in a cutting edge clinical trial.

Unfortunately, if that is not paid for by their HMO or the insurance company, many times they have nowhere to go. Our bill specifically covers these clinical trials. We think it is very important that HMOs and insurance companies cover them. The competing bill does not. This amendment specifically covers that provision.

Second, access to specialty care. We simply want patients to be able to go outside the HMO when that is their only option. We support the amendment, and I urge my colleagues to vote for it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Madam President, I understand we have 5 minutes left?

The ACTING PRESIDENT pro tempore. Six-and-a-half minutes.

Mr. KENNEDY. The other side has 28 minutes?

The ACTING PRESIDENT pro tempore. Yes.

Mr. FRIST. Madam President, I will speak for about 5 minutes and then I will be happy to yield the floor. I want to reserve our time in the event someone else wants to speak. Right now, I will plan to only speak for 5 minutes of our time.

For those who are just beginning to pay attention, about 35 minutes from now we will be going to a vote on the amendment by the Senator from Arizona which addresses issues of clinical trials, coverage of clinical trials as one of the patient protections in the Patients’ Bill of Rights, and also access to specialists.

On the floor last night, we spent about an hour and a half walking through the very critical importance of access to clinical trials for the individual citizen who can potentially benefit. Remember, clinical trials are investigations and experiments. We don’t know if you can benefit from a trial, but it is cutting edge. We want to expand access to these clinical trials as much as is reasonably possible.

In addition, access to clinical trials is critically important from a societal standpoint, because without an adequate number of people participating in clinical trials, there is no way to translate the tremendous investment that we put into research and basic science. We must learn through clinical trials, clinical experiments, and investigations. Ultimately, the knowledge edge ends up in clinical application to benefit people who have heart disease, lung disease, myasthenia gravis, mental health problems, or who are recovering from stroke. So it is critically important in terms of benefiting individual patients and society at large that we put into translation or translation of basic science into clinical application.

I have been blessed to be able to participate in that process as a physician and clinical investigator. I have been personally involved in a number of clinical trials. I obtained consent for those trials and have given the interventions, whether it was an artificial heart or pharmaceutical agent. As a physician and investigator, I have participated and seen the great value in those clinical trials.

In the Frist-Breaux-Jeffords bill, we include clinical trials as one of the major patient protections. We feel strongly about the right to participate. The Senator from Massachusetts, in responding to my comments, mentioned two things. One, studies show these clinical trials do not cost very much, much of it in much of it in... First, we do not know how much it is going to cost. I made that case on the floor last night. Second, there have been several studies in one field—the field of cancer. However, what we are putting into the Frist-Breaux-Jeffords bill goes much beyond cancer.

The McCain-Edwards-Kennedy bill goes beyond cancer as well. The cost of those blinded, prospective peer-reviewed studies when you look at artificial hearts and lasers and expensive technology—all of which are part of FDA, simply have not been calculated. We do not know how much it is going to cost. Some studies have examined the cost for cancer, and many of those cost-effective because the trials are done in centers of excellence, with the best physicians in the world, investigators who know the literature, and the best practices. There is no way you can extrapolate about cancer and its good studies to those that have been done on heart disease and lung disease. It cannot be done.

Two, the point by the Senator from Massachusetts was made as a criticism—but I take it more as a compliment—that we have expanded coverage in the Frist-Breaux-Jeffords versus the bill which passed on the floor of the Senate last year.

The following day, the Senate a year and a half ago with regard to clinical trials: Plans would cover routine patient costs in NIH, FDA, VA, or DOD approved or funded cancer clinical trials. Why did it pass in the Senate? Because there was good data as to how much cancer clinical trials would cost. We thought it most prudent to pass legislation only for cancer trials.

In the Frist-Breaux-Jeffords bill, we said we are going to expand it beyond cancer; we are going to expand it to all other diseases.

Madam President, I yield myself another 10 minutes.

The PRESIDING OFFICER (Ms. STABENOW). The Senator has that right.

Mr. FRIST. Madam President, what we have done in the balanced Frist-Breaux-Jeffords bill is expand what passed in the Senate last year and take the position we were going to cover all clinical trials. We would take that expansion as a point of criticism; I take it as a compliment. It shows we are not entrenched; we are willing to move and do what is right for the American people, given what we know at this point.

Three years ago, we did not have these studies. We are getting them as we go forward. We do not have studies on medical devices and, yes, we may have those studies 2, 3, 4 years from now.

It comes back to the approach in the McCain-Edwards-Kennedy bill which, again, is going to drive health care costs up for all 170 million people who get health insurance from their employers. Everybody listening to me is not on Medicare and Medicaid. If someone has insurance, they are likely getting it through their employer. Your premiums are going to go up. How much? It depends on how much we add to this bill and how far we go. Therefore, the prudent thing is to add what is balanced, reasonable, and in the best interest of the patients.

The Senator from North Carolina showed a picture of a family. We have seen lots of families. Republicans and Democrats have shown them. What is important is, when we look at the appeals process and access to patient protections, those patients would, under both bills, have access to patient protections—access to a timely appeals process, access to independent physicians in the external appeals process, and the right to sue HMOs.

We will keep coming back to the differences. In their bill, one is not required to exhaust the internal/external appeals process. One can go right to court. We say, no, you have to exhaust the internal appeals process. The Senator from Arizona said that, his bill states you do have to exhaust the appeals process. Our reading does not come to that conclusion. Hopefully, next week we can have a debate on exhaustion of the appeals process. We have to read the language and debate the language.

We know what our bill does. We do not have an exception to opt out of the external/internal appeals process. At the end of the day, in the Frist-Breaux-Jeffords bill, we clearly allow suing HMOs, and the McCain bill allows one to sue the HMOs. We will continue to argue that they also allow you to sue the employer. We will have an amendment offered at some point so we can go head-to-head arguing whether or not their language protects the employer. Again, an amendment will be coming.

It is important for my colleagues to understand that when we see these pictures of individuals, the Frist-Breaux-
Jeffords bill adds the same protections: internal appeals, external appeals, access to suing the HMO at the end of the day.

The cost issue: When we see pictures of individuals—I hate to keep coming back to every time I mention cost, I want my colleagues to understand that when we drive up the cost of premiums for the 170 million getting insurance, that means they pay more. However, if you are the working poor, there is some limit as to how much more you can pay. Therefore, we need to balance how far we can go in expanding rights to sue and new coverage with providing necessary patient protections. We have to come back with that balance.

What do we cover in the clinical trials in our bill? We cover all the clinical trials for all diseases for the National Institutes of Health. We have made tremendous progress in this country in increased funding for the National Institutes of Health, in large part because of the leadership of Republicans in this body and in a bipartisan way.

There are about 4,200 clinical trials in NIH, and about 1,500 of those are carcinologic. Yet we have expanded coverage compared to what passed 2 years ago. Two years ago, there was a universe of 1,800 trials at NIH. Now it is up to 4,200. All clinical trials in the Department of Defense are covered also in our bill. Additionally, all clinical trials in the Veterans’ Administration are covered under our bill. There is somewhere around 40,000, 50,000, 60,000 U.S. researchers, clinical investigators doing the investigations like I was doing before I came to the Senate, participating in those trials.

Last night, I mentioned an issue which we have not really talked much about in this Chamber, and that is when there is a clinical trial, there can be an adverse reaction. We know that. We have had hearings in oversight on human subject protection.

Last night, I mentioned the fact that there are adverse reactions by definition when you are experimenting on human beings, which clinical trials are. You have good reactions and bad reactions. Bad reactions can result in the loss of an arm, or it can result in death. Clinical trials can result, unfortunately, in adverse reactions. We need to minimize that over time.

Now, the Ted Kennedy-Edwards-Kennedy bill, they can sue with unlimited damages and on the basis of that adverse reaction. The trial lawyer will sue the physician for sure, but now, under this new case, the Senator from Arizona, which I think is a very good amendment addressing the importance of clinical trials, also addresses access to specialists. In the Frist-Breaux-Jeffords bill, we feel strongly that you do need to make sure people in managed care, HMOs, have appropriate access to specialists.

We require timely coverage for access to appropriate specialists when such care is covered by the plan. If the plan determines there is no participating specialist that is available to provide that care, the plan is required to provide coverage for such care by a nonparticipating or an out-of-plan specialist, very similar to the Kennedy bill.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. FRIST. I will be happy to yield. Mr. KENNEDY. The plan makes the decision that specialty care is necessary. However, if the plan says no and the patient believes that it is necessary, what rights does the patient have to question the decision that is made?

Mr. FRIST. I appreciate the question from the Senator from Massachusetts. That circumstance is going to happen. We know the HMOs, at least historically, will do anything they can to restrain care and narrow it down. That is the importance of having—it is in your bill and in my bill—a very quick, rapid internal appeals process.

Then the response is: What if the internal appeals process says no? Then you can go to the external appeals process. Who is in that external appeals process? We will come back and debate that later. I am sure, as well. The patient goes through the external appeals process under our bill in a rapid, timely way. He or she makes the case, and the person who makes the final decision, looking at all the data and all the information is an independent—not just a clerk, not a bureaucrat, not somebody back at the plan—but an independent—that is the word used. An unbiased physician makes that final decision.

Mr. KENNEDY. I understand, and we will have a chance to talk about the appeals process—

Mr. FRIST. Madam President, let’s take this time off—

Mr. KENNEDY. We only have 6 minutes.

Mr. FRIST. If we can take the time we use appropriately off each side.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I only have 6 minutes left.

The PRESIDING OFFICER. The Senator from Massachusetts has 6½ minutes.

Mr. KENNEDY. I will take half a minute of the Senator’s bill, show me where the appeals provisions are in his bill with regard to specialty care? Can he refer me to that in his proposal? My understanding is that there is no appeal by the patient. Once the judgment is made to reject the specialty care, there is no appeal provision. The Senator from Tennessee has given us an assurance that there is. I ask—not right now—if he can give us the parts of his legislation that indicate that because we have not been able to see that.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, in response—any of these medically reviewable decisions—any of them—can go to the appeals process, and specialty care would be one of those. When you are talking about care and access to specialty care for a particular problem, you can go through our appeals system very specifically.

I will close because there are other people, and I would like to reserve the remainder of my time.

We have not talked much about access to specialists. It is critically important. In the Frist-Breaux-Jeffords bill, we have a separate provision for access to a specialist, especially access to an obstetrician and gynecologist. We require direct access to a participating physician who specializes in obstetrics and gynecology. Additionally, access to specialist should also take into account age appropriateness by providing access to pediatricians.

I believe strongly this amendment by the Senator from Arizona should be supported. It addresses, in a sense of the Senate, support for clinical trials, support for breast cancer treatment, and support for access to specialists.

I yield the floor.

Mr. KENNEDY. If I could have the attention of the Senator from Arizona, he has 5 minutes remaining. The Senator from New York has been active and involved in the clinical trial issue and will address it.

May I yield the remaining time to the Senator from New York?

Mr. McCAIN. Could you yield 2 minutes so we could have 3 minutes at the end?

Mrs. CLINTON. That is fine.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. I rise in support of this important sense of the Senate. I have a question to address to the Senator from Arizona who has done so much to bring this issue of clinical trials to the forefront. We heard yesterday important testimony from the head of the National Cancer Institute, Dr. Richard Klausner, who testified that clinical trials are not more expensive than standard therapies and that we need to make them even more accessible. This is what the sense of the Senate provides, what the underlying bill provides.

Probably the premier institutions in our country that deal with cancer, the large cancer centers, are the source of so much of the research done that translates into therapies, treatments and cures, for people suffering from cancer.

As the Senator from Arizona, I am sure his sense of the Senate as the underlying bill includes these cancer centers, places such as MD Anderson in...
Texas, Sloan Kettering in New York, or Dana-Farber in New York. Is my understanding correct that the cancer centers and the research they do as qualified research entities are included in the sense of the Senate?

Mr. MCCAIN. I say to the Senator from New York, she is absolutely right. That is the intent of this legislation. I appreciate the fact she is bringing it to the attention of the Senate to make clear the sense-of-the-Senate resolution.

Mrs. CLINTON. I thank the Senator from Arizona. I congratulate him on his leadership on the underlying bill and on this important sense of the Senate which clarifies that clinical trials are an essential part of modern medical practice and providing the opportunity for physicians to refer patients for these lifesaving treatments. Although they are experimental, it is a way we make advances in medicine which eventually help everyone.

Mr. Frist. How much time remains?

The PRESIDING OFFICER. The Senator from Arizona?

Mr. Frist. I rise to speak about the amendment on the floor which is the amendment by the Senator from Arizona which addresses the issue of access to clinical trials and access to specialists.

There is a section on access to appropriate care for women and men in terms of breast cancer. For our colleagues, these are issues in the Frist-Breaux-Jeffords bill. My bill enlarges on the floor of the Senate, we are introducing amendments to the Kennedy-McCain-Edwards bill, and we are contrasting the two to say: Should we amend their bill? Should we pull back in areas they have greatly expanded over the last several months? Or should we modify?

This amendment is a sense of the Senate expressing the importance of clinical trials. As someone who has been engaged in clinical trials testing as to whether or not certain drugs work to suppress an immune system, I was part of a trial as an investigator. When you perform a heart transplant, the first 2 weeks there is higher incidence of rejection. We used to give powerful drugs and drive the system down, and when we did that, people would become susceptible to infections.

Science led to the field of monoclonal antibodies, more targeted ways of going after rejection. You do a heart transplant, and the first 2 weeks you investigate the new drug. The new drug might work or might not work. If it does work and is more targeted, you get fewer infections and it is a benefit. If not, you figure out the side effects. There could be harm, there may be injury; some trials there is death. That is why last night I talked about the need for human subject protections. We need to address that in hearings in the Subcommittee on Public Health and on health education. That needs to be fixed. It is inadequate today. I talked about that last night.

Access to specialists, from personal experience, is very important. We need the opportunity for physicians to refer patients to specialists. This is where balance is important. If we have anybody at any time going to any specialist or any physician, it is inefficient use of dollars, which we know are limited in health care today.

I was referring to when this body designed HMOs. I think the idea was to have more efficient use of the health care dollar for better outcome. That is translated to better coordination. The pendulum has swung too far that HMOs are in the medical decision-making process, moving the doctors out. We are trying to correct this in the Frist-Breaux-Jeffords bill and the McCain-Edwards-Kennedy bill also, but it goes too far.

If I do a heart transplant, the next day someone hears about it, and it is in the newspaper. In the early days, everybody called my office if they had a problem with a chest pain. I was a heart transplant specialist, trained to fix hearts, but people came in with heart murmurs, jobs, and they came directly to me. It doesn’t really make sense to use my time, and I am not set up to make a diagnosis whether it is esophagus pain or rib-cartilage pain. That coordination we need to have, that is part of managed care. That is why we can’t, in our effort to beat up on the HMOs, destroy managed care coordinated aspects of health care today. That is where we can go too far.

If we destroy coordinated care and destroy all managed care and destroy all HMOs, the people we hurt are those individuals whose pictures we have seen all around because they lose their insurance.

Then they don’t have access to get into this, we are guaranteeing the rights they deserve.

Again, it comes back to the balance of going as far as we can but not going overboard and promising everybody everything in a disorganized way.

I mentioned access to specialists. It is a little bit of a fine line because we want to be able to coordinate people so they can get the care when they need it without going through hoop after hoop, which HMOs have an incentive to do—because more people go through, the more we backup there is, and people will say, I am not going to fool with this anymore, I give up—as a way of rationing care.

That is what we are trying to eliminate. The Frist-Breaux-Jeffords bill: I believe that the McCain-Kennedy bill attempts to do that and in some ways goes too far and moves too much in the direction of destroying coordinated care. Again, this is going to come out in the debate as we go forward.

We went through costs last night. How far do you go in terms of promoting access to investigations and clinical trials? You can go keeping enlarging and enlarging. I talked about it being enlarged in our bill, from cancer to all diseases. You can keep going further. But there is a cost.

The CBO, I think, has done a very good job in estimating the clinical trial aspect—again, because I have looked to see what their assumptions were, and they just weren’t based on factual data. They have to do the best they can. People have not done the studies to the cost estimates necessarily underestimate.

The difference between the Kennedy-McCain bill and the Frist-Breaux-Jeffords bill is significant. It is about 50 percent. I don’t know the exact figures, but ours is about a little over 50 percent of what their cost is.

The Congressional Budget Office estimates raise their premiums by a factor of .86. If you agree with what most economists tell us, a 1 percentage point in premium increase can cost 800,000 to 300,000 people that means the difference between my bill and their bill is that it costs about 180,000 people their insurance, they become uninsured, if you agree with that assumption.

I mentioned that because that is a tiny piece of this bill—180,000 people become uninsured who do not become uninsured in my bill. It is a little piece of the bill. Remember that this is one of our patient protections. And you have the appeals process—internal external. Then we have the lawsuits.

With this one little part, you have 180,000 people losing their insurance that you might not otherwise have. But my bill causes people to lose insurance as well. It is just not as much as they do. I think that cost factor again comes down to balance.

Susan Miller, who is the office manager of Miller Equipment Company in Heiskell, TN, that has 19 employees, wrote to me:

At the present time we offer health care coverage to our 19 employees. We pay the employee’s portion of the insurance premium. Last April when we renewed and, from what I’m hearing, I can expect as much next year. I do not know how long we will be able to absorb these increased costs and still be able to give our employees at least a cost of living raise.

We already have a $1000 deductible of which the company covers $750. The company cannot afford to cover any more.

She closes:

I am just afraid that if we have to reduce coverage or require the employee to pay part of the premium they will just drop the insurance altogether.

Robby Esch from the Knoxville Computer Corporation, Knoxville, TN, with about 29 or 30 employees, again tells the story in an attempt to explain how we just can’t keep driving those costs of premium up.

He says:

This request is for you to take into consideration, Senator Kennedy’s Patients Bill of
Rights Bill and what kind of devastation this could have on small businesses. As the cost of health care rises (roughly 12%-year), it places great stress, on a small-business, to provide benefits of this type. All too many businesses are unable to provide health care coverage for their employees for no other reason than the cost. If costs keep rising at the current rate, many companies will have to make the same sacrifice in order to survive.

As increased pressure is placed on small businesses such as increasing tax burdens, this and other proposals in the Patient Bill of Rights, brings more job losses and devastation into the realm of possibility.

I have letter after letter after letter, arguing that we should not pay for these new rights, but we need to understand that these are rights we are guaranteeing. Where we have the opportunity to inject some balance, we must do so because we are guaranteeing these rights at a true cost—a true cost that translates down to uninsurance or loss of insurance and down to the faces of the families we have seen on this floor again and again over the last several days.

I yield the floor.

The President objects to the liability provisions of S. 1052.

The President will veto the bill unless significant changes are made to address his major concerns—in particular, the serious flaws. The Senator from Arizona listed a number of those. I don't think we need to delay the debate because the President in his analysis says one thing, and the Senator from Arizona says their analysis is incorrect. Why these amendments need to come to the floor so we can debate them.

I think in the Frist-Breaux-Jeffords bill we have shown a willingness to move to where we are compared to where we were last year. A good example is the clinical trials.

I look forward to working with the Senator from Arizona again as we go forward to come to a strong Patients' Bill of Rights. We have demonstrated a willingness to do so.

Two years ago, suing HMOs was basically a liability. For the most part, we said, No, we can't do it; it drives the cost too high. We have been willing to say, No, we can't do it; it drives the cost too high. We have been willing to make the same sacrifice in order to survive.

I yield the floor.
The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—89

Akaka                     Dorgan                     Lott
Allen                     Durbin                     Lugar
Allard                     Edwards                     McCain
Baucus                     Eastburn                    McConnell
Bayh                      Feingold                     Mikulski
Bennett                   Feinstein                     Murkowski
Bingaman                  Fitzgerald                   Murray
Bond                      Fraker                      Nelson (FL)
Boxer                      Graham                     Nelson (NE)
Breaux                     Grassley                     Nickles
Brownback                  Grayson                     Reed
Bunning                   Hagel                       Reid
Burns                     Harkin                     Reed (WI)
Byrd                      Hatch                       Roberts
Campbell                  Holsome                     Rockefeller
Cantwell                  Hollings                    Santorum
Carnahan                  Hutchinson                   Sarbanes
Carper                     Hutchinson                   Schumer
Chafee                     Inhofe                      Shelby
Chelmin                   Inouye                       Smith (NH)
Clinton                   Johnson                     Snowe
Cochran                   Kennedy                     Specter
Collins                   Kerry                        Stabenow
Conrad                     Kohl                        Stevens
Corzine                    Kyle                        Thompson
Crapo                      Landrieu                    Thurmond
Daschle                    Leahy                       Voinovich
Dayton                     Lemay                       Warner
DeWine                     Lieberman                   Wellstone
Dodd                      Lincoln                     Wyden

NAYS—1

East

NOT VOTING—10

Biden                     Jeffords                     Thomas
Craig                      Miller                     Torricelli
Domenici                  Sessions                     Smith (OR)
Gregg

The amendment (No. 89), as modified, was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote, and 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 Tennessee is recognized.

Mr. FRIST. I ask unanimous consent that I be recognized to offer a motion to commit —

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

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. FRIST. Madam President, I ask unanimous consent that I be recognized to offer a motion to commit on behalf of Senator GRASSLEY, and following the reporting by the clerk, the motion be laid aside to recur after the concurrence of the two managers, and Senator GRASSLEY then be recognized to offer his amendment pursuant to the unanimous consent agreement of yesterday evening:

"The PRESIDING OFFICER. Is there objection?"

Without objection, it is so ordered.

MOTION TO COMMIT

Mr. FRIST. Mr. President, I send the motion to commit to the desk.

The PRESIDING OFFICER (Mr. DORGAN). The clerk will report.

The assistant legislative clerk read as follows:

A motion to commit the bill S. 1052, as amended, to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions with instructions to report the same back to the Senate not later than that date that is 14 (fourteen) days after the date on which this motion is adopted.

The PRESIDING OFFICER. Under the order, the motion is set aside.

Mr. FRIST. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM for himself and Mrs. HUTCHISON, proposes an amendment numbered 810.]

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

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

The amendment is as follows:

(Purpose: To exempt employers from causes of action under the Act).

On page 140, lines 11 and 12, strike "issuer," and insert "or issuer—":

Beginning on page 144, strike line 16 and all that follows through line 23 on page 146, and insert the following:

"(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

(A) IN GENERAL.—In addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of an employer or other plan sponsor (or on the part of an employee of such an employer or sponsor acting within the scope of employment).

(B) DEFINITION.—In subparagraph (A), the term "employer" means an employer maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee, or plan administrator, including—

(i) an employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

(ii) one or more employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. GRAMM. I am happy to.

Mr. KENNEDY. Would the Senator give us some idea of the time the Senator from Texas wants to consider this amendment?

Mr. GRAMM. The time I want to consider it?

Mr. KENNEDY. How much time would he like on this amendment?

Mr. GRAMM. I don't have any idea. I don't have any idea how many people want to speak. I don't have any idea how many want to speak in opposition or in favor of it. It was my understanding that the amendment would be voted on Tuesday. So I assume people can stay here today and speak as long as they would like to, and people could speak Monday as long as they would like to. But I do not know how many people want to be heard.

Mr. KENNEDY. That is fine. I thank the Senator. I think there was the hope and desire—I don't think there was the expectation that we would vote later in the afternoon today, but there was hope that we could perhaps get some time definitely for a vote later Tuesday morning. I will let the leaders work that out with the Senator from Texas later on.

Mr. GRAMM. Mr. President, I am always amenable to try to work things out. Whatever the leaders work out on it, I am sure I will be happy with it.

May we have order.

The PRESIDING OFFICER. The Senate will come to order. Senators are asked to take their seats or take their conversations elsewhere.

Mr. GRAMM. Mr. President, probably no other issue has created as much concern in this bill as the issue of whether or not an employer can be sued in a dispute arising out of the liability sections of this bill. I think people can understand that concern.

In America today, we don't require any employer to provide health insurance for their employees, either to pay for it or to pay for it on a cost-sharing basis, or to buy it as part of a plan where the employers pay all of it or part of it.

Millions of families—in America are covered by employers pay all of it or part of it. Millions of families—over 100 million families—in America are covered by decisions that employers make out of what, for them, is a good business decision, in terms of trying to appeal to people to work for them in having a competitive benefits package, and out of the concern and love they have for their employees.

All over America, big companies and little companies enter into voluntary arrangements whereby they help buy health insurance for their employees. So, obviously, a big concern in the bill before us is that if a company cares enough about its employees so that it is willing to spend its money in joining them to help buy them health insurance, or help them get health coverage, by this act of voluntarily providing a benefit, can they be dragged into State
or Federal court and sued under this bill? From the very beginning of this discussion, a relevant issue has been: Can Dicky Flatt, a printer in Mexia with 10 employees, be sued because he made the sacrifice, along with his wife Linda, in helping to set up a health plan so his employers can have access to health care?

Why is this question so important? It is important because there are literally millions of small businesses all over America and some businesses that are not so small, that have made it very clear in national poll after national poll that if we write a law where they can be sued as a result of a dispute between one of their employees and the medical person that they helped the employee buy into, they are going to drop their health coverage.

They are either going to drop it or they are going to say to their employers: then talk about money, some combination thereof and go out and try to buy the best insurance you can buy, but this small business cannot afford the risk of the kinds of liability claims that are being granted all over America which could put this business into bankruptcy and destroy everything that mom-and-pop businesses, such as Flatt Stationery in Mexia, TX, have worked two or three generations to build.

That is the issue. As we have talked about this bill, over and over the question has been raised: Are employers exempt from lawsuits? Can they be sued as a result of their decision to provide insurance? What proponents of the bill have consistently said is: No, you cannot sue employers.

What I would like to do is begin by explaining that is not so. I would like to then talk about my State, Texas, which has a prototype plan—in fact, the proponents of the bill before us often talk about how much their bill is like the Texas bill—and I want to talk about the debate Texas had about employer liability. What they ended right there, then we would be in agreement on this issue that you could not sue employers. But unfortunately, as is true in so many cases of this bill, it does not end right there. What happens is it goes on to the paragraph (B), which is mentioned above, and it says: "(B) Certain Causes of Action Permitted."

Then it goes on to say: Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor.

The bill goes on for several pages talking about circumstances in which an employer could be sued. Then it excludes in this section suits against physicians and it excludes in this section suits against hospitals, but it does not exclude suits against the employer that bought the health insurance to begin with. That is the problem.

The question is, How do we fix it? This is where it gets to be very difficult. There were many efforts in the Texas Legislature in deciding what to do about to say is relevant only in the states where you could sue under some circumstances, you could not sue under others, and they finally decided that if they wanted to be sure that businesses did not drop out of fear that they would be sued simply because they bought health insurance for their employees, that the simplest and safest—because they were very worried about people losing their health insurance and given that we have 43 million Americans today who do not have private health insurance or do not have health insurance coverage of any kind—they decided that the safest route was to have an outright carve-out where they could not do it.

This chapter does not create any liability on the part of an employer, an employer group purchasing organization ...

And this language is right out of their HMO reform bill, their Patients’ Bill of Rights. They also talk about licensed pharmacy and State boards being exempt but that is not at issue here. And they go on to say that an employer, an employer group that purchases coverage or assumes risk on behalf of its employees is not liable under their legislation.

Many people have claimed the bill before the Senate is virtually a mirror image of the Texas law. In fact, the bill before the Senate allows employers to be sued, whereas the Texas Legislature, out of their deep concern especially about small businesses canceling their health insurance if they could be sued under any circumstance, decided to do an outright carve-out on exempted employers so there were no ifs, ands, or buts about it. You cannot sue an employer in Texas that provides health insurance for its employees.

Many of our colleagues have talked in glowing terms about how great the Texas program is and they claim that businesses have not canceled health insurance. One of the big reasons employee health insurance has not been canceled is because employers are exempt under the Texas law. No ifs, ands, or buts about it.

I am sure we will hear from people who say they don’t want to sue employers but are not willing to exempt them. We will be hearing arguments why they should not be exempt. The human mind is a very fertile device. We come up with all kinds of possibilities, many of which have no relevance whatsoever to anything on this planet, and you can almost always come up with some convoluted situation in which something that generally is nonsense might make sense.

When the Texas Legislature looked at this issue, they looked at a lot of possibilities. One of the problems they had, however, when they took each of the possibilities and worked it out, they could not figure out how to let employers be sued for anything without opening up a floodgate of unintended consequences.

Let me give the most damning example. What if the employer calls the health plan and tries to tell them how to run the health plan. None of us are for that. Here are three points. First, the health plan can be sued if they act in an arbitrary and capricious manner in responding to the employer, so there is still a party standing there that can be taken to court and be held accountable. Why would any health plan put itself in a position of being sued by doing something that violates the structure that has been established in Texas law, and with the passage of a Patient’s Bill of Rights will be established in national law because an employer puts pressure on them?

Second, under both Texas law and the national law as proposed by Republicans, Democrats, and all the variants of all the bills proposed, the hallmark of each of those bills is external review. If I have a problem and I don’t feel I have gotten the treatment I need, I can go before a panel of specialists, that is doctors who specialize in this area of medicine. They are independent of the health plan and, therefore, by definition, independent of any employer that has covered me. Why would any health plan that agrees with me, I get the health care; if they disagree with me, I can go to Federal court and sue for the health care?"
care or go into court somewhere depending on the bill we are talking about.

In the context of this bill, health plans are not final decisionmakers. A panel of independent physicians takes the place of decisionmaker. When people say, let us sue the employer, if the employer is the final decisionmaker, the plain truth is, when we look at the bill before the Senate or any bill proposed, who is the final decisionmaker? Not the employer, not the plan, not the physician treating the patient. The final decisionmaker is the external review process.

Here is the problem, and this is something those who were working on the Texas law, which is our prototype that has been in effect and which has worked relatively well, discovered in trying to write the law where you could sue the employer only if the employer was a final decisionmaker or intervened. They found every time they tried to do that, you got unintended consequences. For example, many health care plans will appoint one or two of the employees of the employer to interface with the health care plan as part of their looking at new benefits at the cost of alternative add-ons or a grievance process. Any time you have that interfacing, which many employee groups demand, want, and deserve, and employers are eager for them to have because they want to be happy with the plan, then you get them involved as a decisionmaker, and potentially, in a lawsuit—even in negotiating and putting the plan together. To what extent are you making a final decision when you decide something can be covered or can’t be covered?

Basically, while the Texas legislature recognized it may very well be you might have one bad employer who tries to intervene in the health care system, there were a lot of checks and balances to protect from that. First, you could sue the health care plan if they allowed the employer to do it. Second, the final decisionmaker is not the health care plan, but an independent panel of physicians. Finally, whatever avenue for lawsuit you opened up against the employer created more problems than it solved. It created numerous unintended consequences where a very effective plaintiff’s attorney in a sympathetic court might be able to argue that something we would agree on the floor of the Senate was perfectly reasonable behavior in negotiating a plan or negotiating grievances with a plan that the firm’s employees might do and in doing so they would be the agent of the employer, that could end up bringing a small mom-and-pop business into court and a judgment be rendered against them because they cared enough to buy health insurance and in the process are driven into bankruptcy.

The problem is, and what will happen is, small businesses—and some large businesses—will look at the provisions of the Federal law and say under this law, notwithstanding the fact that supposedly employers are exempt, a cause of action may arise against employers or other plan sponsors, and they will look at all this language that goes on and on and on until it finally, interestingly enough, and amazingly, after reading for several pages, describing conditions under which the entity that bought the health insurance can be sued, which is the employer, it then concludes that you can’t sue the physician and you can’t sue the hospitals under this bill, but you can sue the employer.

Now here is the point. If there is any ambiguity with regard to suing employers, what is going to happen all over America is employers are going to get out of the business of buying health insurance. What was decided in Texas, I think, was the correct decision and therefore I have proposed it as an amendment to the Federal bill.

What was not decided was that there were no possibilities for abuse by employers. That was not decided by the Texas Legislature. It doesn’t take much imagination to figure out how an employer’s behavior might be bad, or why an employer might try to influence patients. The Texas Legislature concluded that there are all kinds of provisions in the bill to protect against that, including that anything a plan does that an employer or anybody else tries to get them to do that is harmful, they can be sued for.

Another Senator here on the floor is a great prosecutor. He understands health plans can be sued because if some bad actor employer wants them to do something wrong, but they are not going to be eager to step into the courthouse.

Second, the legislature concluded that ultimately the final decisionmaker was the external appeals process, which was totally independent of both the health plan and the employer. So they concluded, wisely in my opinion, that they would not create any liability on the part of the employer or the employer group’s purchasing organization.

This amendment is very straightforward and very simple. It does not say that there could never be a circumstance where employers could misbehave. But it concludes that the law and the bill would be such, and the protections in all of our Patients’ Bill of Rights are strong enough that the most prudent avenue to fail is to exempt the employer because if we don’t, we are going to have millions of Americans losing their health insurance.

I urge my colleagues to look at both sides of the argument. Obviously, with a fertile mind you can come up with some hypothetical examples where employers might do bad things. But you can also come up with far more examples where they might be doing good and proper things. Yet under this bill, and under any language you could write letting employers be sued, or where they would be in danger of being sued, and, therefore, would drop health insurance, the prudent action for America is a prudent action that the most successful plan in America followed when it became basically the Texas plan. That is that the Texas Legislature followed when they decided looking at the whole picture, the pros and the cons, that the safest thing to do was to totally exempt people who care enough to buy the health insurance under this amendment.

Under the Texas plan you can sue the HMO. You can sue the insurance company, but you cannot sue your employer who has joined with you in a partnership in buying your health insurance.

I think this is prudent policy. I believe if we adopt this amendment that we will dramatically minimize the number of people who will lose their health insurance as a result of this bill. I am absolutely confident that if we do not adopt this bill, and if we make it possible in any shape, form, or fashion to sue employers who are helping people buy health insurance all over America, small and large employers are going to cancel their health insurance.

We all say we don’t want that to happen. We all say we don’t want to sue employers. Yet the bill before us allows employers to be sued.

I urge my colleagues to look at both sides of this argument and to take a prudent course by adopting this amendment.

I know several of my other colleagues wanted to speak. If I can, my dear colleague from Texas, who is the cosponsor of the measure, has to catch her amendment.

Mrs. Hutchison. Mr. President, I thank those who are waiting to speak for allowing me to talk on this amendment of which I am a cosponsor because I am very familiar with the Texas law, as one would hope. I know about the success it has had since it was enacted in Texas.

I have heard many people around the country talking about the Texas law, and I urge my colleagues to look at both sides of the argument. Obviously, with a fertile mind you can come up with some hypothetical examples where employers might do bad things. But you can also come up with far more examples where they might be doing good and proper things. Yet under this bill, and under any language you could
We all know that every State has different needs. People have different ways to look at things. Oregon has been a leader in many health care issues which might not work in Texas. That goes across all the State lines.

I will make a point that I want to hear from this amendment. It would apply to the Federal parts of the law. It has worked in Texas.

The No. 1 thing that we want to do in this country is encourage more people to have health care coverage. We want them to have good quality health care coverage, which is why we are passing a Patients’ Bill of Rights.

There have been some concerns raised about patients’ rights with an HMO. I have heard many stories that are very sad, such as an HMO failing to respond to a patient.

That is why all of us want to pass a Patients’ Bill of Rights. It is why we want a woman to be able to go see an OB/GYN without going through a gatekeeper. We want pediatricians to be able to be seen without going through a gatekeeper. We want every American who has an HMO to be able to go directly to an emergency room.

These are very important rights about which we are speaking. But I think it is most important that we also encourage employers to give health care coverage options to their employees.

We want to make sure that everything we are doing will be an encouragement and not discouragement—for employees to get health care coverage because generally the best plans are those that are based on an employer relationship.

Keeping that in mind, the Texas law says:

This chapter does not create any liability on the part of an employer, an employer group purchasing organization, or a pharmacy licensed by the State Board of Pharmacy, to provide coverage or assumes risk on behalf of its employees.

Specifically, in Texas law we have a prohibition against suing an employer because we want to make sure that an employer is encouraged to continue to offer health care options for employees.

I want to give a couple of statistics that talk about the importance of this and how fragile it might be.

In looking at some of the reasons that people give for not having health care coverage, we have some interesting statistics.

According to the Employee Benefits Research Institute, a 5-percent increase in premiums would cause 5 percent of small businesses to drop coverage. A 10-percent increase in premiums would cause 14 percent to drop coverage.

There is also some good news in these figures; that is, if you have a 10-percent decrease in premiums, 43 percent of small businesses would be more likely to offer coverage.

I have talked to small business owners. I can tell you that they would like to offer coverage even when they can’t.
of how much the new law would cost. Do you know what the report concluded? That the average price increase would only be about 2 or 3 percent.

I have not heard a single complaint from an employer that they have had to drop health care coverage for their employees. I believe that they have experienced an unacceptable increase in premiums.

The insurance lobby predicted people would lose their health insurance. Wrong again. Rates of insurance went from 87.4 percent in 1997 to 91.4 percent in 1999.

The insurance lobby predicted there would be a flood of lawsuits. There has been only one lawsuit—that's right, one law suit. The problem is that State laws can only go so far. Federal laws require that thousands of Missourians be covered by Federal—not State—law. I stand in this Chamber today in support of the bipartisan McCain-Edwards-Kennedy bill because it is the only bill before the Congress that protects all Missourians and all Americans.

Recently, my office received a call from Peggy Koch, who lives in Winona, MO. A year ago, in February, Peggy's daughter Kim began having migraine headaches every day. Her headaches became debilitating. She could not work. She stopped attending college. She slept all the time and was in constant, severe pain.

Kim needed to be admitted to the Saperstein Clinic in Michigan, which had the ability to give her the specialized care she needed. She had a referral to receive the care, but her insurance company would not approve it.

When Kim's mother called my office for help to get Kim's insurance company to cover this needed treatment, there was nothing I could do to help her since current Federal law does not protect her.

I can do something now. I can fight for a law that protects her and other families in similar situations.

In the end, after weeks of continuous wrangling and extreme stress, the insurance company paid for 7 of the 15 days of needed treatment.

Mrs. Koch decided that Kim's health was more important than bills and told the hospital to keep her daughter until she completed the 15-day program. The treatment worked and Kim has shown remarkable improvement since completing the program. Now they have no idea how they will pay the bills.

The Kochs have always been diligent about paying their bills. They don't know how they will be able to make it with the medical bills that will hit them in the next few weeks and months.

As a mother, I understand what Kim's mother went through. When your child is in such pain, you will do whatever you have to in order to help your child.

What is sometimes forgotten in this debate is that Kim had paid for the insurance. But Kim had no way to force the insurance company to pay for the critical services directed by her physician. That is why we are here—to make sure that HMOs and insurance companies fulfill their commitment to do what is in the best interests of patients. No family should have to make this type of choice.

Today many Missourians currently have the right to access emergency room services without prior authorization from their HMO. I would like to have the opportunity to share with you a story that happened 5 years ago before Missouri passed its law.

Doug Bouldin is a registered professional nurse and family nurse practitioner in Troy, MO with over 12 years of experience in emergency medicine and critical care. He told me this story several years ago, and I will never forget it.

Doug was working at a large metropolitan St. Louis emergency department. One evening he drove into the garage of his department, but the husband was in cardiac arrest. His team pulled him from the car and began resuscitation efforts immediately.

Doug showed the wife to the family room and began collecting her husband's health history. She said her husband had been suffering chest pain for several days, and when they called their health plan, they were told to drive to a hospital approximately 50 miles from their home instead of going to the closest facility. They passed by four major facilities that could have more than adequately handled his care.

They followed the directions, even though Doug had been suffering severe pain.

The physicians and Doug went to tell her, the first words out of her mouth were, "Why did they tell us to drive so far?"

"Why did they tell us to drive so far?"

There is no way to answer that question.

I received a letter from Dr. Alan Weaver who works at the Tri-County Medical Clinic in Sturgeon, MO. He wrote to me about the problems he experienced in providing emergency care to patients who get their insurance through self-funded plans. Access to emergency room care is a particular problem when people suffer an injury outside of their health plan's network.

Two years ago, a worker who was covered by a self-insured plan through his employer was admitted for a heart attack into the hospital where Dr. Weaver was working. His insurance company demanded that he be transferred to St. Louis, which is 3½ hours by road, before he was stable. They refused to pay for in-patient care. The patient had no choice and transferred to the other hospital.

This patient is the exact reason why I am here today. We need to pass a Federal law to protect these individuals and give them access to emergency room care.

Not all of the problems associated with HMOs involve coverage denials. In many instances, the structure of the current HMO health care system puts up so many barriers for patients to access care that they might as well be denying care. Women are particularly affected by these barriers when they need OB/GYN care.

The McCain-Edwards-Kennedy bill provides women direct access to their OB/GYN doctors. Now, women have to go through a gatekeeper—their primary care physician. No wonder they have a healthcare problem separate from their annual exams.

When a women is experiencing a health problem and needs to see her OB/GYN, it is deeply personal. For a woman to share the full extent of her health problems, she needs to feel comfortable. If she does not feel comfortable, who may not choose to seek the care she needs.

Let's think for a minute about the steps a woman takes just to see her doctor. After entering her doctor's office, she goes to the front desk to check in and explain her health concern to a stranger. If she doesn't have a referral from her primary care physician, she is shown to a telephone.

Now she must call and discuss again what her health problem is with her HMO. Remember, it took courage just to make it into the office, just to walk into the door. Imagine how odd it must feel to be directed to a cold telephone.

After this phone call and hearing that the HMO has denied her request to see a specialist—her OB/GYN, I'm sure you can understand how traumatic this experience can be and how unappealing it becomes to try the process again. All she has sought to do is get the care she feels she needs.

Dr. Gary Wasserman, an OB/GYN in St. Louis, so eloquently sums up this situation stating: "We have created a system that isolates women and infringes on their privacy and dignity."

One final point: I think it is important for everyone to understand that right now, HMOs are totally unaccountable for their actions. No other institution or profession in America enjoys this status.

Is there anyone in this Chamber that would vote to make lawyers, or doctors, or any manufacturer totally unaccountable if they make a mistake that causes an injury?

I don't think there is.

The status quo is unacceptable. Of course, there will be great debate on how to structure this bill. But the bottom line is that a vote against the Patients' Bill of rights is a vote to keep HMOs totally unaccountable.

I don't think this is good policy, and I don't believe that this is what the American people want.
Federal legislation will allow us to strengthen patient protections for everyone in Missouri as well as in the Nation. We can and should ensure that doctors, not bureaucrats, are making medical decisions. We must ensure that patients are put ahead of profits. We must ensure that it begins today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we have heard several anecdotes concerning individuals who are having a problem with their coverage. We must ask yourselves, would those individuals have been any better off if they had no coverage at all? And should an employer be penalized for making the decision to have insurance coverage which may or may not present problems from time to time?

That is what we are trying to resolve, and we will be discussing that issue for several days, how best to resolve it. But we need to remember the front end of the process. It is always set up because some employer, either a large employer or a small employer, chooses to have insurance and set up an insurance plan for his employees.

They are dealing with here with regard to the amendment offered by the Senator from Texas. This is a very important amendment. I think this is fundamental. This is what we will be discussing today and Monday and Tuesday. It is the fundamental question of whether or not we want to sue not only HMOs for their transgressions, but whether or not we want to sue employers, whether or not we want to sue employers, whether or not we want to sue the people who do not have to set up these insurance plans and can walk away from them if they want to, can have no insurance if they want to for their employees, or they can give employees a certain amount of money and say you go take the headaches. I am talking about those individuals. Do we want to subject them to unlimited liability in lawsuits, too?

We, of course, are focusing on the HMOs. We will have a chance to discuss how far we can go in penalizing these health care providers without driving up the costs so that we uninsured a bunch of people. As heartrending as some of these stories we hear are, I hope in a couple of years we will have heartrending stories of people whose employers have done their best to resolve these, leaving them with no insurance, and stories of people dying in emergency rooms awaiting treatment because they had no insurance at all. Those could be logical outcomes of what we do if we get it too far.

We are going to deal with that issue—with what to do with HMOs. But in the process, the sponsors of the bill on the floor have tried to make it clear, I think, that that is the focus, and they are not after the ability to sue, ect., and setting aside physicians. They have been carved out of this bill. They are not interested in suing attending hospitals. They have been carved out of this bill. They are not interested in applying ordinary liability to the external review people and the medical reviewers who are set up in this bill to make objective determinations on coverage and what-not; they only have liability if they engage in gross misconduct.

So all along the way, whether or not you are talking about people who are set up to review these matters, whether you are talking about the sponsors of this bill, they must prove that either totally or partially carved them out of the process and said we are not after them, we want to hold the HMOs accountable.

They also say they are not after employers, but they are not willing to carve them out. That is what we are here to discuss today. This basically goes to the heart of the amendment that has been proposed.

As I understand the sponsors of the bill they are not interested in suing employers. Finally, they get down to the other parts of the bill and say, well, there are some instances where employers can be sued if they are directly participating in the decision-making process. Or knowingly, or if they fail to perform any other duty under this act—which whatever that might be.

Then they go on for 2, 3, or 4 pages in the bill to describe where direct participation is needed. It does not mean—leading one to believe right off the bat that it obviously is not crystal clear as to when an employer might be subject to liability.

What does direct participation mean? My understanding is that in the front end of the process that has been set up to handle claims under this bill, the internal claims in the initial stage of the game, oftentimes in some of these plans you have representatives of employers involved that would be agents. We look from a legal standpoint, of the employer involved in the front end of this making decisions on coverage issues. If that is the case, we have built in exposure from the very beginning with regard to this bill. That may or may not be a good thing.

But on the issue of whether or not employers are exposed, I think the answer under this bill is undoubtedly yes. Even if they do the right thing, they don’t have the gross misconduct, do their best, have some of their employees perhaps involved in the initial stage, and it goes on up through the appeal process, the internal appeal and the external review, and you bring in the independent folks and medical people to analyze it and everybody does their best, still at the end of the day they are subject to being sued, as I read the bill as currently drafted.

I believe everyone who has any experience either on the giving end or the receiving end of lawsuits in this country realizes that if there is any potential exposure at all for the employer, whether or not he is ultimately found liable after a long trial, perhaps, or a motion to dismiss, or a summary judgment motion, he is going to be sued initially. Why in the world would they sue the HMO, and maybe someone else, for punitive damages, let’s say, for gross misconduct, for the medical role, anyone else, and not bring in the employer to take discovery to see the extent to which he may have directly participated?

How much would it cost that employer who ultimately, who didn’t do anything wrong? How much would it cost him to buy his way out of that lawsuit, settle his way out of it, or go through the process of a trial and win at the end of the day? That is what employers are faced with—employers who have chosen to set up a medical system to cover these employees to avoid some of these stories we have heard concerning people who are being denied coverage.

This is the result at the end of the day. If you are saying to yourself, you have to ask yourself—and we are not talking about General Motors here alone, we are talking about not only large employers, we are talking about small employers. If you are looking at that employer, as a possible defendant, the whole bill is passed as it is, where everybody else besides the HMOs are exempted out except them, and you are looking at that kind of expense, what is going to be your natural reaction to that? I am afraid that many people are going to opt out.

There is no question that health care costs have gone up; they are going up already. We are already in double-digit increases in terms of health care costs in this country. That is the reason we set up managed care. We obviously want the best of both worlds. Health care, once upon a time, was going up astronomically. We said, we can’t have health care for everybody on demand, and that we would pay the price. It looked as though we would leave a shambles for the next generation. One of the things we did was set up managed care.

We talk about managed care now as if it were some kind of evil enterprise. We set it up; Government set it up. We encouraged it in many different ways in order to bring some cost control to the process because we wanted more people to be covered with insurance. So some of the HMOs that engaged in egregious activities got caught doing things that they should not have been doing. States responded to much of that. The State of Tennessee has more coverage now for many of these things than the bill that is on the floor does.

Most States have their own system that they have set up. This bill comes along and totally wipes all that out and says there is only so much the States can do. Tell me what it is that needs to be done that the States can’t do if they choose to do it.

But now we are at the point—after having gone through the high health care costs and the response to that of setting up managed care, the response to
managed care abuses by the States—that health costs are now going back up. So what do we do? We come along and nationalize the rest of the system, which, under the most conservative estimatistates, will throw more than a million persons.

More than 1 million people will not have these problems, these terrible situations they find themselves in about choosing hospitals, the nearest hospital, and all that. What hospital are they going to choose if they have no insurance at all?

We cannot fool the American people into believing we can always have all of our cake and always eat it all at the same time. There are costs connected with everything. What we are trying to do is achieve a rational balance so people have reasonable protections, reasonable coverage at a cost that is affordable and will not drive people out of the market and leave more and more people uninsured. That is what we are struggling to do.

In that sense, does it make sense to hold employers who may or may not choose to set up these plans, especially small employers, liable?

I am sure someone will say: Why not make an employer liable because of some kind of egregious activity? As my friend from Texas said, we can all come up with some kind of potential egregious activity. Suppose an employer called up somebody connected with the plan that he controlled who worked for him, let’s say, at the front end of the process when they were processing a claim, and gave them some instructions. It would be a bad thing to do.

I could ask the same question with regard to a treating physician. What if a treating physician, because he has not been paid on time or otherwise, was negligent, sloppy, or just angry, decided not to supply all the medical records for his patient to the plan in order to make sure the employer is qualified, to make sure he is independent and qualified to do an internal appeal process? Then it goes to this qualified external review entity, which is set up as I just described—high qualifications, high degree of independence, high degree of supervision.

They take a look to decide whether or not there is coverage in this case. We could pass a law that says everybody is covered in every case. That would be the logical extension of some of the rhetoric we hear around here, but everybody knows we cannot do that for obvious reasons. But we have this entity set up to make that decision.

If he makes that decision totally objectively, not subject to corruption, then a person can go to court and totally ignore everything that has happened up to that point. Not only is that process I just described not binding, it is not even relevant to the court lawsuit.

Let’s take it a step further. Let’s say this independent reviewer who I just described decides it is a medically reviewable question. This bill sets up an independent medical reviewer, and he or she is independent also. The bill goes to great lengths to make sure this is a qualified medical independent person. It describes how their compensation is set up. It puts in all these safeguards so we know we have somebody who is a qualified professional doing the best he can to make an objective determination on questions such as whether or not this is really an experienced medical and dental opinion. It also describes whether or not they are asking coverage, whether or not it is medically appropriate under these circumstances—issues such as that.

Then let’s say he answers no. So you are going through the internal appeal process, the internal appeal process, the qualified external review entity has gone through his process. Then it has been handed over to the independent medical reviewer, and he goes through this process. If it goes through all of that and everybody looking at all the relevant documentation and listening to all the experts concludes there is no coverage, the claimant can still go to Federal court and not only is all this process not binding on the court, it is not even relevant to the court.

As best I can tell from this legislation, it is not even admissible. The defendant in that lawsuit cannot even bring in the fact that they spent the last year in this review process. We all want independent, objective, qualified experts looking at it. And we won, the defendant says, but then you can set it all aside.

Even if we want to subject an HMO to that process because they are all evil, is this a process we want to subject an employer to? Is a small employer going to take a look at that kind of deal and say: This is something of which I want to be a part?

We are going to be asking ourselves that question because we can do some good with this legislation and at the same time do some bad through some unintended consequences in a very complex area where people do not sit and think when Congress passes broad, sweeping legislation.

People react to the laws that are on the books at the time. People look at their own self-interests, and they figure out ways to protect themselves. One of the easiest ways for a small business to protect itself from a process such as that is to get out of it.

As I said, as I have seen so far, the most conservative estimate says that, under this bill, over 1 million people will lose their insurance because prices will go up so much further on top of the increases we are already seeing even before this legislation is passed. Medical prices are going to go up even further, and a lot of people are going to say: I do not need this kind of aggravation.

Mr. President, I conclude by reiterating what I said in the beginning. This is a very important amendment. We have heard about the salutary effects of the Texas law. Next week I want to talk about lawsuits in Texas. But Texas has been held up as an example, obviously, because that is the President’s home State and people get a kick out of using Texas as an example.

Let’s use it as an example in this case. If the sponsors of this bill really are not interested in targeting employers and including small employers, then why do what Texas did? Let’s just carve them out. The way we did in the Independent Reviewer’s Board, the way we did hospitals, the way we did partially with qualified external reviewers, the way we did partially with independent medical reviewers, carving them out partially or totally. If we are really not after large employers, let’s carve them out, too.

This is going to be an interesting debate and an important one not only for the future of this legislation, but I think for the future of the country. I yield to the floor.

The PRESIDING OFFICER (Mr. REED). The Senator from Wyoming.

Mr. ENZI. Mr. President, listening to this debate it probably sounds like the Democrats have coined a good phrase, the Patients’ Bill of Rights. Are they the only ones in favor of it? It is a good phrase. What we are doing is legislating. Legislating means fixing the bill so that it does what the title says. We want to have a Patients’ Bill of Rights. It is a Patients’ Bill of Rights. That is the fundamental issue before the Senate. The fundamental issue is getting patients the
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care they need when they need it. The lawsuits are peripheral. They are not the main issue.

I have listened to my Republican colleagues discuss this matter for 2 days; likewise, my Democratic colleagues continue to offer specific examples of patients whose care was not appropriately delivered. They have cited the need for their version of a Patients' Bill of Rights to curb such abuses by HMOs. The Democrats know full well it is not new right to sue that will address the cases they keep raising. They know it is the immediate medical review of the claim for benefits that will get people care and prevent more horrible injuries from occurring.

Here is the interesting part. We all agree on this point. Eighty percent of what is being talked about in the Patients' Bill of Rights we agree on. Eighty percent of it will take care of the patients. That is the part on which we agree. It has been reflected in every version of that bill that has been introduced. Speaking on specific examples of HMO wrongdoing is certainly relevant to this debate and likely reinforces what the American people need for a bill.

However, the message the Democrats are trumpeting is misleading. I hear them saying they are the only ones who want a bill. I say again for the fourth day and for the fourth year, I want to pass a Patients' Bill of Rights and so do our Republican colleagues. Patients are foremost in this debate. That should remain our focus. In our effort to meet that, we do need to make a number of modifications to the underlying bill. The other 20 percent of the bill needs to be fixed. I believe we can do that and subsequently enact into law a strong bill.

I don't know that it is universal that everybody wants a bill. I think some people want an issue. I was involved in the Patients' Bill of Rights conference committee last year. Some of my more senior colleagues tell me Members spent more time working that bill than any bill they can ever remember. We came that close to a solution. In fact, I know everybody realized we could have the solution, and we were about to get agreement on the entire package. Some decided that an issue was better than a solution, that the issue would resonate during the elections. So we defeated the Patients' Bill of Rights today. People bailed out of that conference committee, came out to this floor and introduced a package that was clear back at the beginning of the negotiations. It didn't contain a single issue we had resolved. They wanted an issue of a sort into law. We are all trying to get a Patients' Bill of Rights. We are all concerned. Right now what we are doing is writing laws. Laws have to have the right wording. I congratulate the Senators from Texas for providing wording that is extremely important in this debate. I ask that they make me a cosponsor on this amendment.

This is going to be extremely important to everybody who gets insurance. It will be more important, of course, to the businesses that participate in providing that insurance. I watch out for the little guy. I was a small businessman. My wife and I started a family shop. We grew it into a little bazaar. We saw that what government regulation does to people's job. Most of that government regulation is not bad for big business because they can afford the specialist to do it.

The small businesses, who have to be experts in all of these areas we see as grand solutions for everybody, don't have the experts. They have to handle all of these things on their own. I have been there and done that and I will watch out for those small businesses.

One thing I will say about small business, those small business employees recognize how tenuous the business is and consequently how tenuous their jobs are. They understand it is not a company that can afford to pay a lot of hard work that provides people with services, and consequently, people with jobs. They do understand, also, that insurance is voluntary. They know their employer does not have to give them an insurance plan to provide the insurance. They recognize it is a benefit that helps them keep the employee, but it is not clear cut how that is provided.

As the insurance prices have gone up, more and more businesses have dropped insurance. As the price has gone up, more and more businesses have shared the cost. They have said this is all we can afford, we will have to share on the cost. Some businesses do not provide insurance and individuals have to buy it themselves.

If costs go up, fewer and fewer of those businesses that are voluntarily providing that, or are at least providing a portion of the insurance, will continue to pay. There is going to be more employer liability. One of the things that will cause that to happen is the employer liability contained in this bill. We are told there is no liability. I spent about 20 minutes yesterday discussing that there is liability here. On page 148 is the beginning of the exclusions for physicians and other health care professionals. It is very straightforward. It covers one page of the text. It says they can't be sued. Now, that is not an outright exclusion. It is pretty close to an outright exclusion to the other ways to be sued other than what is in the bill. This is found on page 148, with the title at the bottom, but technically, the details are on the next page, one page, double-spaced.

Page 148, exclusion of hospitals: Same deal, very straightforward. It takes a page and a half for hospitals. Physicians only take one page for exclusion, and hospitals take a page and a half. There are still ways hospitals can be sued, as there are ways physicians can be sued.

I explained yesterday how the employer liability works. Page 148 says causes of action against employers and plan sponsors precluded. It sounds about as straightforward as the others, doesn't it? The way I counted, there are two dozen pages providing exceptions. It is not just like you can begin reading at the beginning. What the exceptions are: yesterday, you better have a bushel basket of bread crumbs to follow the trail as you go backwards and forwards looking at the exceptions in the bill. Remember, the 239 Members are going to vote on it. They have to be able to understand this. The easy way out for them, if they don't understand it, is to drop it and say, I am not going to be sued. If I don't carry the insurance, I can't be sued. It is that easy.

So they say, here is money I used to put into your insurance. I know you participated in it and had to put some in, too. I know that is not deductable. That is another sore point that ought to be cleared up while we are doing the business. I am not sure that either way at night to allow deductibility for the insurance premiums for the self-employed.

That is another one of those small business issues that ought to be cleared up in this bill. The self-employed get deductability for their insurance. The self-employed don't. Is that fair? I guess they do not have good lobbyists. It is something we could get cleared up in this bill, but we have already chosen not to. I have heard of the Texas plan. I congratulate the Texas Senators for kind of making them put their writing where their mouth is. The Texas plan. I congratulate the Texas Senators for having a Texas amendment that says they are the only ones trumpeting is misleading. I hear them saying they are the only ones. They have not gone to give the self-employed the same right to deduct insurance that we give to the big corporations.

Small businesses come under the self-employed category—the single proprietor that hires four or five people. That is the small businesses about which we are talking. We wonder why they do not provide insurance. We wonder why those in that group that do are the lucky ones. The small employers have to do it. It is a Texas version that says the employer can't be sued. With physicians and just as with hospitals, it isn't quite as straightforward as that. They
can still be sued, but not specifically because of the way this bill is written. Bad drafting produces bad legislation. I hope it was just written this way as a result of speed, but I have to tell you I think it was intentional.

I am of those discussions about liability before and all of the unusual cases that can happen from it and all of the strange exceptions. Those will affect a few people in this country. But most of them who will be losing that option, they don't know that. So insurance will never come into a single exception that applies to the employer, to the physician, or to the hospital. They just want to be well. When you are sick, that is what you want. When you are sick, you are not trying to figure out who to sue and how to sue. When you are well, that can be taken care of.

I congratulate them on coming up with this amendment that will clear it up. I have to tell you I was a little disappointed when we spent a couple of days talking about problems with this bill, and problems that would make this bill acceptable. We have talked about those before, negotiated them, and have had some success on that. I was really disappointed when the first amendment that I think the proponents of this bill was a sense of the Senate.

I hope everybody understands what a sense of the Senate is. A sense of the Senate is merely a political statement that takes up a lot of floor time and results in almost always unanimous. They just pick something that everybody is going to agree to. And we take time debating it when we could be debating corrections that need to be made to allow people to keep insurance. It is no surprise to anybody that those wind up with a huge vote. I have to tell you that this one was 89–1. Usually they are 99–1. I will also tell you that I am usually the one. I vote that since they have been paying for their own insurance they can no longer afford it, or it will make businesses decide they will have to pass along a bigger share to their employees, or that they won’t be able to afford insurance either.

That would be a patient’s bill—not a Patients’ Bill of Rights. One of the great things about this bill, and one of the things we worked hard on in conference, and one of the things that was missed was an internal and external review process. If you need the care, there is a way to get it reviewed by doctors. If you do not like the decision, there is a way to get it reviewed by doctors outside of the situation so there isn’t a conflict of interest.

Those approaches get care to the patient, and can even be expedited, if there is a dramatic health care problem. It can be expedited. There is the internal review and the external review, which will get you the care and which makes the external review the final decisionmaker, as the Senator from Texas said.

This bill ought to be written in a straightforward way. I was hoping that the proponents of the bill would see the error, listen to the comments that have been made, and make the changes. But they haven’t. Instead, they have introduced this Patients’ Bill of Rights, which is not the Texas version, and since the Texas version and President’s version is there, we ought to accept it. We are pointing out that is not the Texas version. But we are willing to do the Texas version. That is what we want. We want to have health care, and we want to get everybody on board who is getting health care.

I have a few quotes that I want to share with you on this ability to sue and how effective it is of getting health care.

Dr. Richard Corlin, who is the president-elect of the American Medical Association, says:

We are for medical malpractice reform because we have seen the problem of what happens when it gets enacted and what happens when it doesn’t get enacted. . . . Premiums drive people out of practice, they do not provide anything in the way of added patient safety. . . . It’s not just physicians. The costs go up inordinately and they are passed along to everyone.

He is talking about the propensity to sue in the United States, which is what we are talking about in the convoluted writing of this first provision which first says we are going to exclude the providers, the businesses, from liability, and then weaves this nasty little web which shows that the intent is to sue them.

Another thing on lawsuits by the American Medical Association:

The AMA is strongly committed to legislation that would (1) strengthen states’ rights to govern the healthcare of their clients, (2) shield employers from frivolous lawsuits, and (3) not open the courts to a wide array of new lawsuits.

A member of the AMA board of trustees says:

Some opponents of patient protection legislation have spuriously alleged that employers will be held liable for simply selecting the plans, under this scenario. We therefore believe that the bill should explicitly state that employers and other plan sponsors cannot be held liable for fulfilling their traditional roles as employers and plan sponsors.

That is from a member of the American Medical Association board of trustees.

Another quote by the American Medical Association:

Although patients, physicians, and health care providers are most directly harmed by the present liability system, society as a whole is harmed. The skyrocketing costs generated by our nation’s dysfunctional liability system are borne by everyone.

Remember, these are quotes from the people who are specifically excluded in the bill, not the ones on the macrame string trail of not being excluded. And they still feel that strongly.

Another one from the American Medical Association:

In the testimony, the AMA indicated its concerns about “enterprise liability.” A proposed policy change included in the Clinton Administration’s health reform, that would have made health plans liable for physicians’ malpractice. At the time, the AMA stated, “Enterprise liability may also increase the frequency and magnitude of medical liability claims as individuals become more willing to sue an anonymous “deep pocket.””

Everything isn’t from the American Medical Association, and should not be. I have a quote from the vice president of government affairs of the Associated Builders and Contractors, Inc. He says: Many of ABC’s—

That is the Associated Builders and Contractors. They are member companies are small businesses and thus the prospect of facing a $5 million liability cap on “civil assessments” is
So I ask that my colleagues pay careful attention to this, make a correction in the bill, so it will make sense. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, this is such an important issue. I think it is important to start with the facts in the underlying bill. With all respect to my colleagues on the other side of the aisle, I feel compelled today—after listening to the debate—to rise and to specifically speak to the language in our Patients’ Bill of Rights, to state what it specifically says, not what has been talked about, not what the HMOs and the insurance companies are telling employers that it says, but what it actually says.

Unfortunately, the biggest myth that has been perpetrated about this legislation is in relation to businesses being sued. The reality is—and I take it from the relevant section of the bill; and I welcome anyone listening today, rather than listening to us going back and forth and debating the language in the bill, to go to the Congress.gov Web site and look up the language themselves. I would encourage them to do that. In this case, it is very helpful to do, as people are interpreting and misinterpreting language.

In this bill—and I am proud to be a cosponsor of this bill—we have specific language in section (5): “Exclusion of Damages” and “Plan Sponsors Precluded.” Then there is another subsection: “Causes of Action Against Employers and Plan Sponsors Precluded.” And other than a couple of exceptions that I will speak to in terms of direct decisionmaking, it says:

... does not authorize a cause of action against an employer or other plan sponsor maintaining the plan or against an employee of such an employer or sponsor acting within the scope of his or her employment.

It goes on to talk about certain causes of action that are permitted, and it indicates that a cause of action may arise against an employer to the extent there was direct participation by the employer or other plan sponsor in the decision of the plan—this would apply to very few, if any; I don’t know employers that directly make medical decisions—if, in fact, the employer was making a direct decision, directly participating. And this goes on to talk about the fact that this subsection does not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral. It defines what that is.

This is not about those employers who hire someone to manage their plan, whether they hire an insurance company, or they have coverage for their employees, or whether they themselves are self-insured and hire someone to administer their plan for them. The only way an employer would be held accountable is if they had direct participation in the decision, if the employer denied the test, if the employer was the one making the medical decision; we would all agree in that small number of occasions. I don’t know any one directly providing and making medical decisions—possibly a group of physicians together in a business or a small medical group. The employers I know either have insurance through an insurance company or they pay someone to administer the plan. In those cases, you cannot come back against the employer.

We make it extremely specific. I wouldn’t want to leave the HMO or the insurance company be able to come back against an employer.

It is extremely important that we make it clear what is going on. It is very unfortunate that we have seen so much misinformation in order to scare small businesses and other employers about what this does.

I will speak about a small business owner—this is someone about whom I have spoken before—and how he feels about this. Sam Yamin from Birmingham, MI, owned a tree trimming business, had insurance, and thought he had health insurance and care available through that insurance for himself and his family and employees. He had an accident. He had a severe accident with a chainsaw.

He was rushed to the nearest emergency room. The surgeons came in to do emergency surgery on his leg to save the nerves. They called the HMO, and the HMO said: Sorry, you are at the wrong emergency room. We are not going to OK this emergency surgery to save this man’s leg. You have to pack him up and take him across town.

That is what they did. And this small businessman who had insurance, who paid the premiums, who believed that he had care for himself, his employees, this family, was taken across town, where he sat on a gurney for 9 hours before he literally pulled a phone out of the wall in desperation and pain to get attention to receive care.

In that situation, instead of the surgery the doctors had said needed to be performed in order to save the nerve endings in his leg, he was sewn up. The least amount of procedure was done. He was sent home.

Today this small business owner no longer has his small business. Today this gentleman does not have the use of his leg. This gentleman is disabled. Sam and Susan Yamin described this situation as having gone through “health care hell.” This small businessman would gladly pay what is 23 cents a month per person for the accountability provisions in this bill—23 cents a month, according to the Congressional Budget Office—in order to have his leg functioning, in order to have his business back, in order to have his family out of the incredible debt that resulted from this situation.

Was the HMO held accountable for this decision? They can be held accountable for the cost of the test he
I urge that we proceed with the language in the bill which is very clear: There is no ability to proceed to sue a business unless they participate directly in the medical decisions. It seems only right to be able to have that happen.

The other point I will make. It is true that we need to provide more support for small businesses to provide insurance. I support that. It is true that we should be allowing someone who is self-employed to deduct 100 percent of their costs under the tax bill. We put an amendment up and colleagues on this side of the aisle—Senator DURBIN took the lead with others, and we passed a provision to help small businesses and the self-employed. It was taken out in the conference committee.

So it didn’t pass, even though we tried to pass it. I support it and I will support it again. But this is about making sure that people who pay for insurance get the care they think they are buying.

One other point, there is no question that insurance costs have gone up. I believe it is 10 percent last year. There is no relationship to what we are debating a couple of minutes ago, employers, hospitals, and physicians they say what has a lot to do with the uncontrollable rise in health care costs is prescription drugs. That is the No. 1 uncontrollable cost in the health care system today.

I am anxious to work with colleagues on both sides of the aisle in order to address that and, hopefully, very soon after passing the Patients’ Bill of Rights we will address the access and cost of prescription drugs. There is no question that we have high costs. We have rising costs of health care. But when I talk to my doctors, my hospital administrators, and businesses, they tell me the insurance companies tell them it is going up because of the cost of prescription drugs.

We are talking about a difference of 23 cents a month per employee for the accountability provision in this bill. I go back to Sam Yamin from Birmingham, MI, an employer himself who today sits at home in pain with high, mounting health care bills because of the lack of accountability. I know that Mr. Yamin and the business community and the families I support think that this bill is worth it. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I am not going to get into a fight with our dear new colleague from Michigan. She has always been very sweet to me. I want to get to the point. I think are very relevant to the issue before us. Let me make one thing clear. The bill that I cosponsored on the Patients’ Bill of Rights last year with Senator NICKLES, Senator Frist, and others, which passed the Senate by one vote, required that every HMO in America apply a prudent layperson standard in admitting people to emergency rooms. It is exactly the same language that is in the Democrat bill that is before us today. Basically, it says that if you are experiencing something that to a reasonable layperson would convince you that something bad is happening to you and it might hurt you or kill you, you can go to the emergency room.

So the issue before us has had absolutely nothing to do with the right of people to go to the emergency room. In the bill before us, that right is guaranteed. In the Republican bill that we passed last year, that right was guaranteed, and it was guaranteed in exactly the same language. Also, as good as it sounds to say that an employer might call the emergency room and say don’t admit this employee of mine, A, I am not aware that any employer has ever done it; secondly, the emergency room doesn’t work for that and in virtually every state in the Union it is illegal for them not to admit the patient and the HMO is going to pay for the care.

This sounds like a good example, but it makes no sense, nor would an emergency room ever, based on an employer calling and saying “don’t admit this person,” fail to admit them when the emergency room is guaranteed that they are going to get paid and that the HMO is required by law to pay for the service they are going to provide.

Now, let me go back to the central issue here, which is not people being
Our colleagues who are for the bill before us say: In Texas, there have not been these rash of lawsuits. Part of the reason is, in Texas, you cannot sue the employer.

Let me explain what is different between the Texas law and the bill that is before us. Sure enough, the distinguished Senator from Michigan, as have many supporters of the bill, read us paragraph (A); in fact, the heading before paragraph (A) is very clear. It is a little tedious, but bear with me a second.

Their bill says in title (5):

Exclusion of Employers and Other Plan Sponsors.—

That sounds like they are excluding employers, right? Then they say in paragraph (A):

Causes of Action Against Employers and Plan Sponsors Precluded.—

If it had ended there, they would have been precluded, but they come down and say:

Subject to subparagraph (B)—

Remember that; it is always a dead give-away that things are not exactly as they say:

Subsequent to subparagraph (B), paragraph (8) states:

Causes of Action Against Employers and Other Plan Sponsors.—

The point I am making is, they have been precluded, but they come down and say:

Certain Causes of Action Permitted.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor, . . .

Therefore, for seven pages, they have all kinds of ifs, ands, or buts. Then they have little provisions that have little hooks in them. I want to explain one of them. There are a bunch of them, but I want to explain one of them.

They are saying conditions under which an employer can be sued, and then they use the following term. They say: "Failure described in . . . such paragraph, the actual making of such decision or the actual exercise of control in making such decision . . ." That does not sound too perilous until you realize that under ERISA, a Federal statute which governs all employee benefits in America, that the employer is assumed to be exercising control. In fact, ERISA assumes or requires that the employer be bound to be 100-percent responsible and deemed to be in control of employee benefits. The plain truth is, that is this confusing, but it is a classic bait and switch. It is a classic bait and switch when they say you cannot sue them, and then notwithstanding the paragraph that says you cannot sue them, which is subparagraph (A), they then go on to have a cause of action that may arise against an employer or other plan sponsor, and then they go on for seven and a half pages of where you can sue the employer. Then they decide: Gosh, it probably would be good politics right now to exclude physicians and hospitals who are involved in health care. And then so there is no doubt whatsoever, they come back and say: But in excluding doctors and hospitals, we are not excluding employers from being sued.

To suggest that in any shape, form, or fashion this language is equivalent to the language in Texas, which says you cannot sue an employer, is invalid. What does our amendment do?
Mr. FRIST. May I ask one more question? It really has to do with this subject. Madam President, may I address a question to the Senator from Texas?

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator may ask a question.

Mr. FRIST. This is the Texas law. I want to make it clear, because the answer to my first question was that there are not five or six pages of exceptions in Texas law.

Mr. GRAMM. There are no exceptions in Texas.

Mr. FRIST. We have to make it clear because again and again during this debate the statement is being made that what the Kennedy bill does in terms of employers is exactly what the Texas law does. But with what the Senator from Texas has just gone through, that is simply not true.

Mr. GRAMM. That is right; there is no question about that. When the distinguished Senator from Michigan and others have done it as well—say what if the employer called up the emergency room and said: Do not provide treatment to my employee, let my employee die—first, under all of the bills people are guaranteed admission to the hospital. The first thing the attending physician—and the Senator from Tennessee has been there—the first thing the attending physician says to the employer is drop dead because the law guarantees the emergency room is going to be paid by the HMO.

In Texas, they didn’t conclude that there may not be employers that try to do bad things. What they concluded was the following: First, there are checks and balances. If an employer tries to interfere in anybody getting health care, how does this bill work? How does the Texas plan work? If I think I need health care and I don’t get it, I can ask for internal review. There is an internal review. If I don’t believe that has been treated fairly, I can ask for an external review. That is guaranteed. The external review is made up of a panel of physicians who don’t work for the employer. How do you fix this? We clearly have to fix it. The trial lawyer makes 40 cents on the dollar and, in a $1 million suit, that puts $400,000 in their pocket. Only 33 percent goes to the patient and the rest to the lawyer and the system. Clearly, the lawyer has incentive to sue.

You can sue the HMO, the doctor, the hospital, the plan administrator, and the employer. They tried to take care of something to be named by not exempting the employer, by having seven pages of ifs, ands, or buts, but if that induces the employer to drop your health issue, what good does it do you?

Let me conclude with the following two charts.

Mr. FRIST. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. FRIST. Please state what your amendment does. Clearly, you can sue your employer. The McCain-Edwards amendment does. The one thing you cannot sue me for that puts $400,000 in their pocket. Only 33 percent goes to the patient and the rest to the lawyer and the system. Clearly, the lawyer has incentive to sue.

You can sue the HMO, the doctor, the hospital, the plan administrator, and the employer. They tried to take care of something to be named by not exempting the employer, by having seven pages of ifs, ands, or buts, but if that induces the employer to drop your health issue, what good does it do you?

Clearly, the lawyer will go for the employer. How will it be fixed by your amendment?

Mr. GRAMM. The amendment mirrors Texas law that says nothing in the bill creates any liability on the part of the employer or an employer group purchasing organization, that purchases coverage or assumes risk on behalf of its employees. No ifs, ands, or buts. It is seven pages and a half pages of exceptions. You simply cannot sue the employer.

Those who support S. 1052 unamended, despite all their efforts to the contrary, are creating numerous loopholes that will force small businesses to lose employees. And what is going to happen in my hometown to look at this and say, I don’t know if I can be sued. They will go to lawyers, and the lawyers will say it will depend on a jury, it will depend on the court, it will depend on how good that plaintiff’s attorney is.

You need to recognize there are seven and a half pages in this bill of circumstances under which you can be sued. When you relate this language to other laws like ERISA, it sure looks as if you can be sued.

I am afraid for little employers in Arkansas, Tennessee, Texas, and everywhere else. I often talk about my friend Dicky Flatt, who has 10 employees. I can envision Dicky Flatt getting together with his employees and saying: Look, with this new law, I cannot be sure that I can’t be sued if you have a bad experience in our health plan. While I love you all and while we built this business together, left the work of my foreman, my work, my mother’s, my wife’s work, and our children’s work be put in jeopardy. So I will have to stop providing health coverage.

That is what will happen. The only way to guarantee it will not happen is to do what the Texas Legislature did.

The proponents of this bill say: Look at how great it has worked in Texas. If you want it to work as it has worked in Texas, go to Texas. Do not bring it in Texas. Exempt the employer. So for every small business in Arkansas, every small business in Texas, every Dicky Flatt, there will be things they are uncertain about in the bill, but the one thing they can say is: You cannot sue me because I cared enough about my employees to buy them health insurance. You cannot do it. You can sue the HMO. You can sue the health care provider if they didn’t do a good job. But you can’t sue me because I negotiated the plan, because I am responsible for it under ERISA, because I picked two employees to represent all of us in interfacing with this HMO, with this insurance company. You cannot sue me for that.

Why is that so important? There are a lot of Americans who still don’t have health insurance and who are losing health insurance every day. When we debated the Clinton health care bill, there were 33 million Americans who didn’t have health insurance. Today, there are 42.6 million Americans who don’t have health insurance. Shouldn’t we be concerned about a bill that could add millions to this number?

I remind my colleagues, the Congressional Budget Office, in looking at this bill, concluded it would drive up insurance by more than 4 percentage points in cost. The estimate that is normally used is 300,000 people lose their health insurance for every 1 percent increase in costs. So at a rate of 4 percent, we are looking at 1.2 million people losing their health insurance.

But there is one other thing. In looking at that number, did CBO look at the fact that employers couldn’t be sued? Or did they just look at the first paragraph that said they couldn’t be sued? Nothing in CBO’s estimate seems to take into account that employers can be sued under this bill.

The final result that goes beyond health insurance goes to something more important to your health than whether you have health insurance or not.
What is that? It is the right to choose your freedom because we are the only developed country in the world where people still have freedom to choose their own health care and their own health care providers.

It is pretty startling when you think about it. I have listed the richest, most developed countries in the world. These are the so-called G–7 countries. Every time we have a meeting of the G–7, these are the countries that are at that meeting. These are the countries that are rich, like we are—Canada, Italy, Japan, the United Kingdom, France, Germany, and the United States of America. Those are the richest countries in the world.

In Canada, 100 percent of health care is dominated by the Government. In Canada, a famous cancer doctor said as he left the system a week or so ago, that I have patients dying of cancer in Canada who could be treated. But they have a government-run system, they have lost something more important than their health insurance in Canada. They have lost their freedom.

In Italy, a 100-percent Government system:

In the United Kingdom, everybody has to be a member of the Government system. They have a loophole for very rich people. They can go outside the system and get treatment from the doctor independently of the system. They have to pay for it twice. But only rich people can afford to pay for it twice.

In France, 99 percent of health care is controlled by Government; in Germany, 92 percent.

Then we come to the United States of America. Sixty-seven percent of Americans have the right to choose. They are free to choose their health care. Obviously, they are concerned about losing their health insurance. That is why I don’t want people to sue employers. I am worried about how many people you can lose. You can lose your freedom.

I know my Democrat colleagues get mad when I keep going back to the Clinton debate, but it is relevant on this one point. I will make it and then stop.

In 1994, when President Clinton proposed we take everybody out of private health care and force everybody to buy health care through the Government, in the Senate, my colleagues who are doctors thought you needed health care that was not prescribed by the health care purchasing cooperative in your region, and your doctor went ahead and gave it to you anyway, your doctor could be fined $10,000.

If you thought your baby was dying, and you went to the doctor and said, look, I know this treatment is not prescribed by this health care purchasing cooperative, and I know the Government won’t pay for it, but I will pay for it; can the care, under the Clinton bill, the doctor would be sent to prison for 5 years for providing the care.

What was the argument for this bill? The argument for this bill was that 33 million people were uninsured and that was the price we had to pay to cover them.

Today we have 42.6 million people uninsured in the United States who need health care, and sue employers and employers dropped their health coverage, won’t the same people who were for this plan 7 years ago be back here saying now it is not 33 million who are uninsured, but it is 50 million? Well, I will tell you this: if their plan produced the 50 million. They are not going to tell you that suing employers caused small and medium sized and large businesses to drop health insurance. They are just going to say: Look. The time has come to now have the Government take over health care. Look. Shouldn’t we be doing it? Everybody else in the developed world is doing it, and America is out of step. And what we need to do to get people coverage is to have one Government plan.

My colleagues, I simply urge that before we do something as harmful—such as letting people sue the employer for helping them buy health insurance—let’s think about what is going to do to employers dropping health insurance.

I hope everybody understands that you don’t have to provide health insurance. No employer is required by law to provide health insurance. They do it because it is good business, and they do it because they love the people who work for them. But if you put the business at risk, they will stop providing health insurance. This number is going to go up and then we are going to start having a system such as Canada, Italy, Japan, the United Kingdom, France, and Germany.

If anyone wants to know why I am so concerned about this bill, it is because I am not going to lose my health insurance. I have the standard option Blue Cross/Blue Shield. In fact, under this plan, if I needed some health care, this external review process can deem that Blue Cross/Blue Shield has to give it to me, even if they specifically preclude it in the contract. I bought the standard option, but I am going to get the high option under this bill.

What is going to happen to my health insurance costs? It is going to go up. I am not going to lose my health insurance. I have the standard option Blue Cross/Blue Shield. In fact, under this plan, if I needed some health care, this external review process can deem that Blue Cross/Blue Shield has to give it to me, even if they specifically preclude it in the contract. I bought the standard option, but I am going to get the high option under this bill.

The Texas Legislature did not conclude that every employer was the same. They did not conclude that there might not be bad actors out there. They concluded that this bill, as our bill, gives real protections against that, but, in the end, they concluded that if you let people sue the employer because of a dispute with an HMO or health care provider, you are going to end up having people drop their health insurance.

We need to do the right thing in this bill. There are too many ifs, ands, and buts. There are 7½ pages of exceptions. If we want to talk about why we say to the small mom-and-pop businesses, under the bill I voted for you cannot sue an employer, then you are going to have to vote for this amendment, or else you are not going it be able to say it.

I thank Senator and Dr. Frist for his great leadership on this issue. The amazing thing is we agree on 90 percent of this bill. The amazing thing is if we could talk about six or seven issues, and fix them, we would get 90 votes, maybe 100 votes on this bill. One of those has to be you can’t sue the employer. Another has to be that when Blue Cross/Blue Shield signs a contract with me, I can’t come back after the fact say: Well, now I only paid for 60 days in the hospital for mental care, but I need more. If I needed it, I should have bought the high option. If they give it to me, they are going to have to charge me for what the low option would have been. This has to be fixed.

We also have to have some reason and responsibility on lawsuits. When is the last time anybody was healed in a courtroom? I have seen people healed in the emergency room, in doctor’s offices, outpatient clinics, hospitals, and even as a little boy with my grandmother, I have seen people healed in revival tents. But I have never seen anybody healed in a courtroom.

Our Democrat colleagues say: Look. We have these rights to sue. Great. But if my child is sick, I don’t want to sue. I want health care. After my baby is dead, I am not interested in going to the courthouse and suing somebody. I want my child to have health care.

We have agreed on internal and external reviews. We have said that anybody can go to the emergency room. We have set up systems on which we agree. We do not agree on these end-run issues, we would have a bill that everybody could be for. But don’t think for a minute that these issues are not critical to health care and critical to America. That is what this fight is about.

I ask my colleagues on the Democrat side of the aisle and some of my colleagues over here that are for this bill: Do you really believe that this matches the Moses brought down from Mount Sinai?

Is this really the embargo of perfection? Do you have every good idea that was ever had in history? Could it be that it could be improved? Could it be that some reason and compromise might actually make the bill better? My guess is it could be; and I hope they will consider it possible.
I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, I thank the Senator from Texas because the discussion of the last 20 minutes makes it crystal clear—walking step by step through the bill—that employers, under the Kennedy bill, can be sued. The amendment of the Senator from Texas basically says: Let’s take the words out of the Texas law and put them in this Senate Chamber. It will make it crystal clear, with no exceptions, that employers cannot be sued.

The chart that has been shown by the Senator from Texas is the Texas law verbatim. It is interesting. The Senator from Texas took the exact words in the Texas law and put them in his amendment.

I have just asked to have the chart be blown up a little bit closer so I can walk through it because this chart is a little bit different than the one we showed earlier. It is the actual picture of the page of the Texas law.

The chart of the Senator from Texas is several pages in terms of the explanation and the definition, but the words that are actually used in the amendment are “does not create any liability on the part of an employer” or “does not create any liability on the part of an employer” — if that sounds familiar, it should, because those words that are in the amendment: “does not create any liability on the part of an employer”. But those words are not in the underlying McCain-Edwards-Kennedy bill.

I posed the question to the Senator from Texas: Are there exceptions in here? As you look through it, no there are not exceptions. There is a period. There is a period under the Texas law. As you look at the amendment by the Senator from Texas, there is a period after “employment.” Again, there are no exceptions.

If you look at the McCain-Edwards-Kennedy bill—I do not have it right in front of me, but there are pages and pages of exceptions. The Senator from Texas very eloquently went through those exceptions.

So that is the amendment—a simple amendment—which crystallizes, for us, the issue. I am glad we got to that amendment because it is important to address the big issues of the bill. The Senator from Texas again outlined very well years of work—and the Senate from Massachusetts has been involved for years and has initiated much of the discussion on Patients’ Bill of Rights. I think he needs to be commended for that. The Senator from Massachusetts and I, and the Senator from Texas, spent much of last year debating these same issues and put them on the table, in this Chamber, and also in what we call a markup in committee in a room back behind this Chamber.

So we have come to this general agreement—a 90 percent agreement of the bill; but the 10 percent we do not agree on has the potential for threatening the health care of millions and millions and millions of people who get their health care through union-sponsored plans and employer-sponsored plans.

So, yes, we have come to all this agreement on 90 percent of it. It is this little 10 percent we have to address. We have to address it as we are doing, up front, with debate. We need to hear from people around the country. Is it real? Is it bad to allow employers to be sued? In a little bit I will refer to some of the people in Tennessee in relation to this risk of being sued, what it means to them, what it means to their employees.

Much of the debate on the Kennedy bill does come to this issue of opening the floodgates to a wave of frivolous lawsuits, lawsuits that are uncapped, subject to runaway costs, because that does translate, ultimately, down to the 170 million people paying a lot more for their health care insurance. It translates to the working poor not being able to afford insurance and thus having to say: I just can’t afford my insurance anymore. I have to put food on the table. I have to put clothes on my children. I just can’t afford putting money into frivolous lawsuits and the pockets of trial lawyers. That does nothing, as the Senator from Texas said, to address the issue of getting the care to people when they need it.

A lot of people do not realize that the average malpractice case is not settled for 3 years. If you need care, you deserve that care. We have to fix the system with patient protection, strong internal appeals, strong external appeals, and strong patient protections. That is what you do to fix the system: to get the care when you need it; it is not to run to a courtroom and wait, on average, 3 years for a malpractice case. If you take your child to the emergency room, or go for a referral for appendicitis, or treatment of heart disease, 3 years later means very little.

We talked a little bit about the lawyers. We rely on the legal system again in terms of holding plans accountable. If there is a wrong or an injury, we hold HMOs accountable. We hold them accountable.

For economic damages, that can be millions and millions of dollars. Under the Frist-Breaux-Jeffords proposal, the trial lawyers can sue for millions and millions of dollars of economic damages. We do not allow you to sue for punitive damages. Suing for punitive damages does not fix the system. We say let’s save the millions of dollars on punitive damages. Let’s invest in the system through internal appeals and strong patient protections. That is the way you fix the system. You do not want money that should be spent taking care of patients and delivering care put it into the courts and into the trial lawyers’ pockets. This takes money out of the system, away from the delivery of health care, and away from the doctor-patient relationship.

Nobody has unlimited money. This money is not just going to fall from the sky. You are taking a piece of the system through increased premiums paid from the pockets of the union workers and the employees enrolled in
these plans, and you put it into the pockets of the trial lawyers. I mention all this because where are the trial lawyers going to go? You can sue a doctor. You should, if there is malpractice. You should. If there are economic damages and noneconomic damages, that is the right thing to do. If a hospital was involved in the injury, you should be able to sue a hospital, if that hospital really did commit malpractice. HMOs, you should be able to sue. You have to be able to hold them accountable if there is harm or injury. What about an agent of the plan? The McCain-Edwards-Kennedy bill says you can sue an agent of the plan, an agent of the HMO. Who is that? It was interesting. I talked to doctors, to members of the AMA. I asked: How can you support a bill when you are for tort reform? The American Medical Association for years has been in favor of tort reform, malpractice reform, modernizing the system. How can you support a bill that has the potential for unlimited runaway lawsuits, multiple causes of action, travel from State court to Federal court, back and forth forum shopping—how can you do that? And they say: because we can sue. We can sue the employer. The Gramm amendment does this in crystal-clear terms it takes out the employers. It leaves the HMO.

The trial lawyer will go after the doctor, the hospital, the agent of the plan, the plan, or the employer. He or she will go after whoever he or she can, if there is injury or harm. We just walked through the bill that says you can sue the employer. If you are told you have lung cancer but you don’t, you will say: OK, you have gone down the aisle and the sponsors of the McCain-Edwards-Kennedy bill changed the bill, in a positive direction, and took the doctors and hospitals out. What they did not do was take out the employers. The bill that Senator KEN- NEDY has been on and has proposed—or at least the first few months of this year—said that you can sue the plan or you can sue an agent of the plan. I think it was in last year’s bill. The physicians hadn’t caught that. Then they caught it a few days ago and said: You shouldn’t be going after doctors. You should go after the HMO, the plan. For the first time, in the rewrite of the bill, the Seniors, the doctors as well as adequate tort reform and construction of a common ground between suing doctors as well as suing HMOs? We haven’t heard back yet. Re- form of the overall system is one way to address the issue.

The trial lawyer will go after the doctor, the hospital, the agent of the plan, the plan, or the employer. He or she will go after whoever he or she can, if there is injury or harm. It is interesting because for the last three years the bill that Senator KEN- NEDY has been on and has proposed—or at least the first few months of this year—said that you can sue the plan or you can sue an agent of the plan. I think it was in last year’s bill. The physicians hadn’t caught that. Then they caught it a few days ago and said: You shouldn’t be going after doctors. You should go after the HMO, the plan. For the first time, in the rewrite of the bill, the Seniors, the doctors as well as adequate tort reform and construction of a common ground between suing doctors as well as suing HMOs? We haven’t heard back yet. Reform of the overall system is one way to address the issue.

Now whom can I go after? The HMO, the one from months before, it appears. Where are the deep pockets? The HMO, appropriately so; the agent of the plan, I am not sure. No, you cannot sue the doctors anymore. That was re-written and taken out of the bill introduced last Thursday. You cannot sue the hospital because that was taken out of the bill. You have, I think, the employer. In the McCain-Edwards- Kennedy bill the trial lawyer, who has a financial incentive for personal gain—I am not questioning the ethics of the trial lawyers, I am saying there is a financial incentive there—if there is an injury, is going to go after all the pockets of money out there. Potentially, the biggest pocket, in terms of assets, is the employer.

We just walked through the bill that says you can sue the employer. If you are told you have lung cancer but you don’t, you will say: OK, you have gone down the aisle and the sponsors of the McCain-Edwards-Kennedy bill changed the bill, in a positive direction, and took the doctors and hospitals out. What they did not do was take out the employers. The Gramm amendment does this in crystal-clear terms it takes out the employers. It leaves the HMO.

The employers are out there voluntarily trying to do what is best for their employees. If you are running a business and you have a product and you are dependent upon your workforce, you want to pay them as well as you can. You want to give them all the benefits you can. And the benefit that is most challenging today is health care, because of escalating costs across the board and because today people need health insurance in order to access the system. Having this huge loophole where you can sue employers is going to make employers worry about how to drop that health care coverage. They are not going to be able to afford that exposure.

If you are sitting there with a small business of 25 employees and a group of 18 or 19 convenience stores, making margins of 2 or 3 percent, and you are not subjected to lawsuits today, and tomorrow you are going to be subjected to this unlimited liability when all you are doing is trying to help your emp- loyees. For that, you pay for their premiums and voluntarily giving them their health insurance, you will simply say: I can’t do it anymore. I will walk away.

What do those employers do? Well, they will probably say: Give me some money, the money you are spending, and I will go out and try to find a policy. They may not be able to find a policy. One hundred seventy million people are in union plans and in employer-sponsored plans today. As we uncover what is in this bill, they have to be asking themselves: Can I afford to keep offering health insurance for my employees? Unfortunately, the answer in many cases is going to be no, I simply cannot.

I know this is the case because when I got home the other day from one of the television shows my wife said: This sure is confusing to me. You say you favor the McCain-Edwards-Kennedy bill, says very specifically you cannot sue em- ployers. It is confusing to everybody in this room.

I am not saying it has to be confusing to the millions of people who are out there. Whom do you believe? What does the bill really say? That is why I have so much respect for the Senator from Texas, because he really does go back and read every line of these bills. It is something that I both admire and I try to do, and that is what it is going to take to really settle this question of what is in the bill. Where does ‘‘direct participation’’ actually mean?—the words in the bill.

A number of people have gone out and looked at the very specific language in the bill outside of this body. I am going to enter into the Record shortly, but first let me quote from, a letter sent to the Honorable THOM DASCHLE, our majority leader, and to the Honorable T RENT LOTT, minority leader, dated June 15, 2001. I will quote from the letter just what their interpretation is on this whole issue of em- ployers. A lot of points are made in the letter. I think in a very concise way, these people, who represent millions of people, state their interpretation of this issue of being able to sue the em- ployer.

Before I read it, let me tell you who these groups of people in the letter are. I ask unanimous consent to print in the RECORD this letter.

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


Hon. Thomas Daschle, Minority Leader, U.S. Senate, Washington, DC.
Hon. Trent Lott, Minority Leader, U.S. Senate, Washington, DC.

Dear Senator Daschle and Senator Lott: With the Senate poised to consider the Kennedy-McCain patients’ bill of rights, we are writing to express our serious concerns with this dangerous and extreme legislation. This bill would allow costly and unlimited lawsuits against employers, would add to already skyrocketing health care costs, and would put at risk the health insurance of millions of Americans, for the third time urge Congress to oppose this legislation and avoid the dire consequences it would have on our employer-based health care system.

Employers are not protected from liability under the Kennedy-McCain bill, and lawsuits are allowed in both state and federal courts for the same incident under different causes of action. Further, the legislation’s $5 million dollar cap on punitive damages in federal court is really no cap at all. Employers would still be subject to unlimited liability in at least five other employers and federal courts. Finally, lawsuits could be filed against employers before an independent external review is completed. If faced with suitliability, many small employers—will have no choice but to stop offering coverage altogether.

CONGRESSIONAL RECORD — SENATE

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Employers today are already struggling to cope with skyrocketing health care costs, especially in the midst of a dramatically slowing economy. This year, costs are up an average of 12½—somewhat more than the annual rate of inflation. The Congressional Budget Office found that the bill would increase costs an additional 4.2 percent. With many employers already being forced to pass these rising costs on to their workers, even more employees will be unable to afford coverage. Especially vulnerable will be America’s working poor, many of whom can barely manage now.

More than 1 billion Americans rely on health care coverage voluntarily offered to them by their employers, but the unlimited liability and higher costs that would result from the Kennedy-McCain patients’ bill of rights would undoubtedly put their coverage at risk. We firmly believe you can’t sue your way to better health care, and a recent poll shows voters agree. Only 19 percent of those polled supported the kind of unlimited liability found in the Kennedy-McCain bill. In today’s economy, the last thing Congress should do is consider legislation that would discourage employers from offering health care coverage and make coverage more difficult for workers to afford.

Sincerely,

National Federation of Independent Business.

National Association of Manufacturers.

U.S. Chamber of Commerce.

National Retail Federation.

Printing Industries of America.

Rubber Manufacturers Association.

The ERISA Industry Committee.

National Employee Benefits Institute.

Food Institute.

Food Distributors International.

The Business Roundtable.

American Benefits Council.

National Association of Wholesaler-Distributors.

National Restaurant Association.

Associated Builders and Contractors.

International Mass Retail Association.

National Association of Convenience Stores.

Society for Human Resource Management.

Associated General Contractors of America.

Mr. FRIST. I thank the Chair.

The groups I will quote from have examined the legislation. It is in their interest to really read through the bill and not just the rhetoric. They include the National Federation of Independent Business, the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Retail Federation, the Printing Industries of America, the Manufacturers Association, the National Employee Benefits Institute—the whole institute—the Food Marketing Institute, the Food Distributors International, the American Benefits Council, the National Association of Wholesaler-Distributors, the National Restaurant Association, the Associated Builders and Contractors, the International Mass Retail Association, the National Association of Convenience Stores, the Society for Human Resource Management, the Associated General Contractors of America. All of those associations and others are on here; but you get the message when you are talking about hundreds of millions of people. They wrote, after looking at the specifics of the legislation, the following:

Employers are not protected from liability—

As an aside, those six words are underlined in the letter by the authors, referring to the McCain-Edward-Kennedy Patients’ Bill of Rights: “As a general rule, employers are not protected from liability under the McCain-Edward-Kennedy bill, and lawsuits are allowed in both State and Federal courts.”

Employers are not protected from liability under the McCain-Edward-Kennedy bill, and lawsuits are allowed in both State and Federal courts. Employers would still be subject to unlimited liability in at least five other ways in State and Federal courts.

Finally, lawsuits could be filed against employers before an independent external review is complete. If faced with such liability, many employers—especially small employers—would have no choice but to stop offering coverage altogether.

That captures it. Again, this is not a Senator who has a vested interest because he, with Senators Jeffords and Breaux, wrote a bill—it is not me or the Republicans or the Democrats. These are groups that represent scores of millions of people—I don’t know exactly how many. You heard the list. That is their interpretation of what is written in this bill. This simple amendment put forth by Senator GRAMM addresses the issue of whether or not you can sue your employer in the most direct, clear-cut way, taking the exact language out of the Texas State law and putting it into Federal law, using the exact same words.

It is hard to say the other side of the aisle because Senator McCaIN is a Republican on their bill, and on our bill we have a Republican, a Democrat and an Independent. But, for the most part, their bill is Democratic and our bill is not. The Kennedy bill is supported and endorsed by the President of the United States and is consistent with his principles.

The President has said that he will veto the McCain-Edward-Kennedy bill unless it is substantially altered. This is one of the areas I know. I have some correspondence from the President and the opportunity to sue employers is one of the things that has to be changed in that bill. You just can’t go out and sue employers in an indiscriminate way, as you can in that bill. From the other side of the aisle, they have said, “First of all, we specifically protect employers from lawsuits.” I think, clearly, we have just debunked that in the last hour and a half.

Another quote taken from one of the Sunday shows last week is:

The President, during his campaign, looked the American people in the eye in the third debate and said, “I will fight for a Patient’s Bill of Rights (referencing the Texas bill) ’cause it’s almost identical to Texas law’.”

“Our bill,” meaning the McCain-Edward-Kennedy bill, “is almost identical to Texas law,” they said. We need to settle that. I have not addressed it, but some of my colleagues have addressed it. That is absolutely not true. The Kennedy bill is not similar to, not identical to, not even consistent with Texas law. Period. So when you hear it or read it or hear it rhetorically, it sounds good because they are trying to jab the President a little, saying, why do we not federalize the Texas law and make it the law of the land; that is what our bill does and therefore the President has no chance on board or there is incongruity to the argument. Well, it is incongruous because the assumption that McCain-Edward-Kennedy is consistent with Texas law is totally false. The McCain-Edward-Kennedy bill is inconsistent with Texas law.

How? Right here. Right here is where you can start. Texas law explicitly does not create any liability on the part of a much employer, except for no exceptions. That is the No. 1 difference. S. 1052, the McCain-Edward-Kennedy bill, explicitly authorizes lawsuits against employers. Again, Senator GRAMM from Texas went through the bill line by line.

The second difference is that the Texas law caps damages in State lawsuits. S. 1052 does not. Texas law does not authorize lawsuits for nonmedical reviewable coverage decisions. The Kennedy bill does. That is the third difference. Let me explain that, because it will help with the understanding of the overall bill.

The sort of decisions that you can sue on can be broken down into two categories. One is treatment decisions and the other is coverage decisions. The McCain-Edward-Kennedy bill applies to both treatment decisions as well as coverage decisions. Texas law does not allow lawsuits for coverage decisions. The Kennedy law applies only to treatment decisions and does not apply to coverage decisions.

Again, when people say there are so few lawsuits at the end of the appeals process in Texas because the Texas law, therefore, we are not going to see lawsuits, go back to the basic assumption. The other side of the aisle is basically saying we are going to be like Texas, you are not going to see any lawsuits. They are not like Texas. No. 1. Employers can be sued. No. 2, they have caps in Texas. No. 3, this whole issue of Texas scope is much narrower than the scope in the Kennedy bill.

The McCain-Edward-Kennedy bill incorporates treatment decisions. What are they? They are quality-of-care issues, malpractice, holding a plan accountable in a vicarious liability way. Those treatment decisions Texas applies to also. What Texas does not include that the Kennedy bill does is coverage decisions. If you listen to the debate on the floor, that has been what most of the debate has been all about. If you are an individual, the question is, Did your plan cover your cardiac catheterization? Texas law, period. So when we hear they did not and you were hurt because you did not get a catheterization so you could be treated, you could go through an internal process in Texas and make it the law of the land; that is what our bill does and therefore the President has no chance on board or there is incongruity to the argument. Well, it is incongruous because the assumption that McCain-Edward-Kennedy is consistent with Texas law is totally false. The McCain-Edward-Kennedy bill is inconsistent with Texas law.

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and external appeals process and sue. All that decisionmaking is addressed in the McCain-Edwards-Kennedy bill—and inadequately, I might say. It is addressed in our bill, I believe, in a much more responsible way.

The point is that Texas does not involve any coverage decisions. That is way beyond the scope. So when people say there are so few lawsuits in Texas, therefore, we will make Texas law Federal law and we are not going to see the lawsuits, that may or may not be true. So the McCain-Edwards-Kennedy bill does not make Texas law the law of the land because of the employers’ lawsuits and the caps.

What has the President of the United States said? We have been through some of the statements. Again, I think it is important to see how other people are viewing the underlying legislation, other than just Senators coming to the floor engaging in debate. I went through and circled several of the areas where President would have been mentioned in the Statement of Administration Policy, issued June 21, 2001, a statement that came from the Executive Office of the President. Again, it is pertinent to the underlying amendment. First of all, in a paragraph on page 2 it says:

The President will veto the bill unless significant changes are made to address his major concerns.

Then under that, where he mentions employers, it says:

S. 1052 jeopardizes health care coverage for workers and families by failing to avoid costly litigation. S. 1052 overturns more than 25 years of Federal law that provides uniformity and certainty for employers who voluntarily offer health care benefits for millions of Americans across the country. The liability provisions of S. 1052 would, for the first time, expose employers and unions to at least 50 different inconsistent State law standards.

Further down in this Statement of Administration Policy it says:

S. 1052 also would allow causes of action in Federal court for a violation of any duty under the plan, creating endless and unpredictable lawsuits against employers for administrative errors.

A little bit later in this statement from the administration it says:

Moreover, S. 1052 would subject employers and unions to frequent litigation in State and Federal court under a vague “direct participation” standard, which would require employers and unions to defend themselves in court virtually every case against allegations that they “directly participated” in a denial of benefits decision.

These statements are from the administration and the attorneys who have advised them.

What about people back home? Again, a number of people have recited remarks from people across the country. I will quote from a couple of letters from Tennessee.

I ask unanimous consent that three letters from which I will read be printed in the RECORD, as follows:

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**John W. Dillard, Jr., President**

**Herndon & Merry, Inc., Nashville, TN, June 7, 2001.**

**Senator Bill Frist,**

**U.S. Senate, Washington, DC.**

**DEAR SENATOR FRIST: We are writing to express our concerns about the provisions in the Senate Health Care Reform Act, S. 1052. As small business owners, we oppose the bill for several reasons:**

1. **Risky for Small Businesses:**
   - **S. 1052 would allow lawsuits against companies for providing health care benefits.** This is a significant risk for small businesses like ours, which often face financial challenges.
   - **If S. 1052 passes, we would have to consider whether to continue offering health care benefits to our employees.**

2. **Increased Costs:**
   - **S. 1052 includes mandates that could increase our health care costs.** These mandates may force us to raise our prices or reduce our services.
   - **If we raise our prices, our customers may be forced to look for cheaper alternatives.**

3. **Uncertainty:**
   - **S. 1052 introduces a new level of uncertainty for employers.** This makes it difficult to plan for the future and to make informed decisions about our business.
   - **We believe that employers should have more control over their health care plans.**

4. **Government Involvement:**
   - **S. 1052 would give the government too much control over our health care plans.** This could lead to increased red tape and decreased flexibility for employers.

5. **Current Law:**
   - **S. 1052 would weaken the current protections for small businesses.** We believe that the current law provides a balance between protecting employees and allowing businesses to choose what health care plan is best for their needs.

We believe that S. 1052 is not in the best interest of small businesses like ours. We urge you to vote against it.

**Sincerely,**

**John W. Dillard, Jr.**

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**BILLY ROGERS FLOOR, HTO, & A/C, INC., Dyersburg, Tennessee, June 7, 2001.**

**Senator Frist,**

**U.S. Senate, Washington, DC.**

**DEAR SENATOR FRIST: I am writing you in regards to the proposed Patients’ Bill of Rights being proposed by Senator Kennedy. I am very much opposed to S. 283.**

Our Company provides Health Coverage to all of our employees that wish or can afford to enroll. We presently have (6) families enrolled and (3) individuals at an astronomical annual cost of $50,000.

Our Company pays approximately 80% of the total cost of the annual premiums. Our Company, this year, experienced an increase of approximately 35% which was totally absorbed by the Company. If we are confronted with an increase of this magnitude in the upcoming new year, I strongly believe that our Company will have to pass on tremendous increases to our employees or even drop our program altogether. Please do what ever is necessary to see that this Bill does not pass.

Sincerely,

**BILLY G. ROGERS, JR. (VP)**

**DILLARD DOOR & SPECIALTY CO., INC., Memphis, TN, June 7, 2001.**

**Hon. Bill Frist,**

**U.S. Senate, Washington, DC.**

**DEAR SENATOR FRIST: As the president of a small business with 17 employees, I am concerned over the cost of our company’s medical insurance. Under our medical plan, we pay the premiums for our employees, and they pay for their dependents. Our carrier increased the charges over 15% this year, and did approximately the same last year. Our company absorbed these additional costs, but we did raise our deductibles (if we hadn’t, the increase would have been much greater). Should premiums continue to increase in such a manner, we will be forced to discontinue or drastically alter our plan. Being such a small company, we are at a disadvantage when it comes to rates, and current laws do not allow us to seek coverage through any of the associations to which we belong.

We also are concerned over any aspects of a future Patients’ Bill of Rights that would allow employees to sue our company for alleged deficiencies in coverage. If such suits were allowed, we would most certainly discontinue coverage for our employees, as I’m sure almost all small business owners would. What I fear is that would happen for those companies that wish or can afford to enroll....

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**Mr. Frist. The first one is from Bill Rogers. He is in Dyersburg, TN. He is a small businessperson.**

**DEAR SENATOR FRIST: Our Company provides Health Coverage to all our employees that wish or can afford to enroll.**

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**THE SECOND LETTER IS FROM JOHN DILLARD, who is president of Dillard Door, a door specialty company in Memphis, TN.**

**DEAR SENATOR FRIST: We are concerned over any aspects of a future Patients’ Bill of Rights that would allow employees to sue our company for alleged deficiencies in coverage.**

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**THE LAST LETTER I ENTERED INTO THE RECORD is from Herndon & Merry, Inc., in Nashville, TN. The last paragraph says:**

I urge you to fight to the last man against S. 283. If my employees will have the right to sue me because I am paying a portion of their health care then you can be assured they will no longer receive this benefit from my company. They will be left out in the cold. But I fear that that is exactly what Senator Kennedy and those on the left would like. Then they can recreate Hillary care and come to the “rescue”.

**Your Friend,**

**Bill Merry, Jr.**

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**THE CONGRESSIONAL RECORD — SENATE**

**S6651**

**CONGRESSIONAL RECORD — SENATE**
If my employees will have the right to sue me because I am paying a portion of their health care, then you can be assured they will no longer receive this benefit from my company. They will be left out in the cold. But fear this is exactly what Senator Kennedy and those on the left would like. Then they can reintroduce Hillary care and come to the White House.

Your friend, Bill Merry.

I wanted to give some perspective from outside the Senate and the White House.

I ask unanimous consent that a four-page letter that was just sent today from Margaret Lamontagne be printed in the RECORD.

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

THIRTY-SECOND CONGRESSIONAL DISTRICT, TEXAS

DEAR MR. LEADER: Thank you for your inquiry regarding the Texas Patients’ Bill of Rights. Numerous questions have been raised about whether that legislation is happy for the opportunity to clear up any confusion. As you may know, I was a policy advisor to then Governor Bush during his tenure as Gov. of Texas and currently as Assistant to the President for Domestic Policy. I would be delighted to provide any additional information that would be helpful to Congress.

History of Texas Patients’ Bill of Rights

As Governor, President Bush signed five patient protection bills and allowed a sixth to become law without his signature. Through the legislative debate, he strongly supported efforts to provide patients with comprehensive patient protections and access to a strong independent review procedure. Governor Bush focused on the goal of providing quality care to patients by enacting timely and independent medical review of HMO decisions. He stressed that legislation should focus on protecting patients, not trial lawyers. And he emphasized that, while patients should be able to hold HMOs liable in court, liability provisions should not interfere with the treatment decision, that is, they do not cause large increases in premiums or raise the number of uninsured.

When, in 1995, the Texas Legislature sent Governor Bush’s Bill into law, it included language that created loopholes and exempted a major HMO from its provisions. Governor Bush vetoed the legislation, stating that he would not sign a bill that favored special interests over patients. He then worked with the Texas Commissioner of Insurance to draft strong patient protection regulations that formed the model for the bills he signed into law the next biennial legislative session.

The Patients’ Bill of Rights Governor Bush signed in Texas in 1997 has been widely regarded as among the strongest in the country. Patients in Texas now have comprehensive patient protections and Texas independent review organizations have considered claims by roughly 1400 patients, approximately half of which have resulted in partial or complete reversals of the health plan’s decision. Perhaps because of the success of the Texas legislation, some of the Congressional sponsors of legislation have insisted that their bills closely resemble, and give the greatest deference to, the Texas patients’ Bill of Rights. In particular, some supporters of the bill offered by Senators McCain, Kennedy and Edwards have argued that their bill, S. 1052, would adopt, rather than depart from, the model adopted in Texas. S. 1052 would threaten to preempt the strong patient protections adopted in states like Texas, would allow causes of action in state and federal court much broader than those authorized in Texas by the Texas legislature to assure the careful safeguards imposed by the Texas legislature regarding employer protections and caps on liability.

S. 1052 departs fundamentally from the model adopted in Texas. S. 1052 would

Mr. FRIST. This is a letter that I hope will be distributed and read, but I will read what this letter says about employer protections. It is talking about the need for flexibility or the state’s decision to override them by imposing a preemption standard. Under S. 1052, employers can be held liable for “the actual making of [a] decision or the actual exercise of control in making [a] decision.” Because the question of whether an employee exercised control in a decision is inherently fact-based, employers will be forced to defend at trial in virtually every case alleging a denial of a claim for reimbursement. The interpretation of “direct participation” will differ in the various state courts, forcing employers to comply with different standards throughout the country.

This treatment of employers is a radical departure from the approach adopted in Texas and will create incentives for employers to drop employee health coverage entirely, further increasing the number of uninsured.

Additional Protections

Texas adopted numerous other protections to ensure that lawsuits benefit patients and not trial lawyers. For example, as Governor, President Bush signed legislation that limits punitive damages to the greater of $200,000 or twice the economic damages of no more than $750,000. Tex. Civ. Prac. and Remedies 41.007. S. 1052, conversely, allows for unlimited non-economic and punitive damages in state courts, imposes no limitation on non-economic damages in federal court, and limits punitive damages in federal court to a relatively high figure of $5 million. Further, it is not clear that the new state causes of action under S. 1052, which will no doubt include punitive claims, would be subject to the various state medical malpractice caps.

Finally, Texas law discourages patients from submitting frivolous claims by requiring that when a patient files suit he must submit either a written report by a medical expert that supports his case or must file a bond. S. 1052 invites frequent litigation by broadening the definition of patient protections to the “rescue.”

They can reintroduce Hillary care and come to the White House.

We urge Congress to send a strong and effective Patients’ Bill of Rights—one that meets the President’s principles—to the President’s desk.

Sincerely,

MARGARET LAMONTAGNE,
Assistant to the President
Domestic Policy Council.

Mr. FRIST. This is a letter that I hope will be distributed and read, but I will read what this letter says about employer protections. It is talking
about the difference between the Texas law and the proposal by Senator KENNEDY before us.

Under employer protections:

Another fundamental difference between Texas law and S. 1052 relates to the treatment of employers. When the Patients’ Bill of Rights was debated in Texas, the legislature acted decisively to protect employers—and their employees—from costly litigation by prohibiting lawsuits against employers.

Conversely, S. 1052 invites frequent litigation against employers by subjecting them to liability based on a “direct participation” standard. Under this standard, employers can be held liable for “the actual making of [a] decision or the actual exercise of control in making [a] decision.” Because the question whether an employer “exercised control” in a decision is inherently fact-based, employers will be forced to defend at trial in virtually every case alleging a wrongful denial decision. Moreover, the interpretation of “direct participation” will differ in the various state courts, forcing employers to comply with different standards throughout the country.

This treatment of employers is a radical departure from the approach adopted in Texas and will create incentives for employers to drop employee health coverage entirely, further increasing the number of uninsured.

Again, people can read this letter from Margaret LaMontagne in the RECORD. She was policy adviser to then-Governor Bush during his tenure as Governor and currently serves as Assistant to the President for Domestic Policy. She clearly was involved in the formulation of the Texas legislation and has had the opportunity to examine the legislation introduced by Senator KENNEDY.

I close by saying I am delighted to support the amendment as proposed by the Senator from Texas. It makes it crystal clear that you cannot sue employers, and it will eliminate this potentially huge source of funding for litigators. But, it will do absolutely nothing for patients to get the care they need in a timely way, in a way of high quality, and in a way that can be respected.

I yield the floor.

The PRESIDING OFFICER (Mr. MURKOWSKI). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been closely listening to the debate this morning. I presided over the Senate for an hour this morning and was listening for that time to the debate with the Senator from Texas. It reminded me of a story about the great debates between Lincoln and Douglas. I have mentioned this story on a previous occasion.

Apparently during those debates, Lincoln and Douglas were having difficulty understanding each other’s point. Lincoln finally said to Douglas: Well, tell me, how many legs does a cow have?

Douglas said: Why, four, of course.

Lincoln said: No, that is where you are wrong. Just because you call a tail a leg doesn’t make it a leg.

What I have seen today is interesting. They have taken a tail, called it a leg, and spent 4 hours describing this as a leg. There is nothing in the Patients’ Bill of Rights or the Patient Protection Act that is designed to subject employers to lawsuits or to liability. In fact, this act, as described, specifically protects employers from the kind of suits that have been described for the last 4 hours.

It is, I suppose, a classic response to something you do not like to try to change the subject, and that is what this amendment is all about, changing the subject.

The central feature of the patient protection legislation is very simple. This legislation is about empowering patients who are confronted with a challenge too often in this country. That challenge is of long managed care organizations that in too many cases will not provide the treatment patients expect to have covered under their health plan. Under this act managed care organizations would be required to provide that treatment.

We believe this is a right to know all of their medical options for treatment, not just the cheapest option. We believe a patient has that right.

We believe a patient has the right to go to an emergency room and get emergency treatment if they have an emergency. Do you think every patient has that opportunity now? The answer is no. We believe a patient ought to have the right to see a specialist when they need to. That is not a right that exists today.

Yes, we believe a patient ought to be able to hold their HMO or managed care plan accountable. Does that mean being able to sue? We are not interested in lawsuits. We are interested in accountability.

If an HMO decides it is not going to provide the treatment that is necessary, then should someone be able to hold them accountable and take them to court? The answer is, you bet. We have spoken about Christopher Roe on a couple of occasions. Let me do it again because it is important in the context of the patient rights we talk about. Christopher died on his 16th birthday. He fought all too often in this country, for-profit managed care organizations have viewed a patient’s care through the lens of how that care will affect their profit and loss. Is this something we are willing to stand for? No. We believe it is important to put into law a set of patient protections or patient rights to change that.

It is interesting to listen to discussing about Dicky Flatt. It is interesting to hear letters from people who say if employers are allowed to sue employers, they will no longer have health care. The fact is, this legislation will not allow employers to sue employees. It is a classic way to divert attention. That is what is happening with the current amendment on the Floor, offered by Senator GRAMM. There are people who have never wanted a Patient’s Bill of Rights enacted. W Right it by a voice vote today. The question of who they stand with those people stand with the insurance companies and managed care organizations. They do not stand with nurses and doctors, all of whom support this legislation. They say they stand on the other side because they don’t like this legislation.

That is fine. That is all right. Everyone has a right to oppose this legislation. But there is not an inherent right to represent this legislation does. And this legislation does not allow wholesale opportunity for people to sue their employers who offer health insurance to their employees. That is not what this legislation is about. This legislation contains specific protections against that very thing.

My hope is we will find substantial common ground in the coming week or so and be able to pass a Patient’s Bill of Rights within a week from today. This bipartisan legislation has been 4 years in the making. I find it interesting to hear people say this has not been the subject of hearings. My Lord, we have had this piece of legislation or legislation like it on the Senate floor time after time after time. It has been around for 4 years. If one cannot read that fast, one can employ someone else to read that fast. This is not new legislation. The only problem is we have people who dig their heels in and do not want to deal with it.

That is a classic response that has come to all changes that have made this a better and better country. Every single thing we have done to advance interests in this country has been opposed by those who do not want to do something for the first time. I understand that.

There is the story of the old codger, 85-90 years old, interviewed by the radio station announcer, who said: You must have seen a lot of changes.

He said: Yeah, and I’ve been against every one of them.

We have people like that who serve in public life, too. That is just fine, except this change is necessary. This change is important. This change empowers patients and does not injure employers. It contains protections to make sure employers are not going to be subject to lawsuits.

We will have more discussion about the protections for employers in the
coming days, especially next week. I hope we can keep our eye on the ball and pass a patient protection act that offers protections that I think are needed and should be offered in this country.

I yield the floor.

Mr. NICKLES, Mr. President, I compliment the Senator from Texas, Mr. GRAMM, for offering this amendment, as well as Senator THOMPSON. I compliment Senator FRIST for his comments and work and leadership on this bill in general, as well as Senator GREGG. People are becoming more familiar with the bill before the Senate, S. 1052, the McCain-Edwards-Kennedy bill.

I have heard sponsors of the bill say employers cannot be sued under this bill. I believe that is a direct quote. That is not factually correct. Under this bill, on page 144, is language that deals with this. It says:

(A) Causes Of Action Against Employers And Plan Sponsors Provided In Section 502

That sounds really good. But that is paragraph (A).

Paragraph (B) on page 145 says:

Certain Causes Of Action Permitted.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor.

(A) says you cannot sue an employer and (B) says notwithstanding (A) you can sue an employer.

It goes on for several pages, whether an employer had direct participation or not. But as an employer, if you have to comply with ERISA, you do a lot of things other than the exemptions provided in the legislation. In other words, under this bill, you can be sued.

Some say that is not true, that is not what we meant. If it is there, we will fix it.

We have a chance to fix it and we can adopt this language. This is language that says employers shall not be held liable under this law. We ought to pass it.

Some have said liability is not such a problem because Texas has not had many claims—other States have not had many claims.

We are looking at the Texas law which says employers shall not be liable. If we are going to say it on the floor, if we say employers are not going to be hit, let’s protect them. We protected doctors in this bill, we protected hospitals. That was a change made last Thursday night. This bill has evolved and changed significantly from the bill we were considering. The original bill was Senate bill 672 and did not have that fix. We fixed it for doctors and some hospitals. Now we have no bill S. 1052 and it did not fix it for employers.

As a matter of fact, employers get more than “fixed” in this bill. Employers, beware. If we don’t pass this amendment or something close to it, employers, beware. The majority leader says to pass it next week. I would love to conclude this debate by next week. But if you make all employers liable for unlimited damages, there are a lot of employers that would rather have Members stay and debate a bill than pass a bill that says we are sorry you provide health care for your employees. You don’t have to provide health care, but for doing that good service for your employees, you can be sued for everything you have, maybe for everything you ever will have. There is no limit on damages.

Somebody said under McCain-Kennedy there is a $5 million cap on punitive damages. There should not be punitive damages in this bill in the first place. I thought the purpose of this bill was to protect patients, not to enrich attorneys. Why are punitive damages in if you are trying to protect patients? They don’t belong. That $5 million cap on punitive damages is a cap in Federal court, not in State court.

There is no cap on noneconomic damages. What that is pain and suffering. You get in front of a sympathetic jury, get a good trial lawyer—if you have a great big company, why not just sue for the world? If you are going to sue for a million dollars, why not make it $100 million, or make it punitive. If you have a big company, you can do a real job on the jury, you might win. It is a little bit of a lottery. You might win the golden jackpot. You might win several hundred millions of dollars. We have seen cases recently from some juries that are in the billions of dollars.

Now we are flirting with the survival of big companies. I am not so worried about the big companies, but I am worried about a lot of small companies that are struggling to survive who are providing health care for their employees because they want to—not, frankly, because it is appreciated. I will tell you as a former employer that most employers pay a lot more for health care than their employees realize. Even the 50, 50, 50 rule, you might tell them they are all millionaires. They can’t do that. They don’t have the money once in a while, they don’t appreciate the money being spent. If you gave employees the option, they would probably rather have the cash and risk not buying health insurance so they could have more disposable income. Those are just the facts. That is the case in many areas.

Why not just do that? If we pass the McCain-Kennedy bill that is what a lot of employers will do. They will say, I don’t have to pay for health care. It is not appreciated as much as it probably should be. And now, now not only do I have to pay thousands of dollars per year to provide health care, but I can be sued for everything. Maybe this company has been going for 40, 50, or 60 years. It may be a bank. It may be a manufacturing company. A good attorney will say: Wow, no limit on pain and suffering. We had a problem. I know you didn’t really have anything to do with it. But you hired this big insurance company and they hired their doctor. That doctor wasn’t very competent. Something bad happened. Somebody died. Therefore, we are going to sue you for what you have because you hired the company that hired the doctor. You are liable. You are involved. You had a direct participation. Therefore, you are liable.

All of a sudden, you are going to go bankrupt. Not only are you lose health care, you lose your health care to yourself, but you may lose your company. The employees may lose their jobs.

That could easily happen under this bill.

I, again, I know, I have heard the sponsors of this legislation say, oh, no; that is not our intention. We are not going after employers. We are going after those big bad HMOs.

If we are not going after employers, let’s exempt them. We have exempted physicians and hospitals. Let’s exempt employers. That is what Texas did. That probably enabled them to pass their bill. Let’s exempt employers under this bill. That is one clear-cut way of not trying to define if they participated in the decision.

I challenge anyone. Start reading through the definition of direct participation. Then tell me if an employer in carrying out their fiduciary duties in providing health care for their employees and choosing their health care plans, reporting, enrolling people, choosing plans, maybe an optional plan, and so on—tell me do they do more than what the exemptions are here. They are not complying with the law. No. They are only talking about saying, employers, you are covered. You can be sued. You can be held liable.

It says Patients’ Bill of Rights. It should say beware, employers. We are getting ready to come after you. Trial lawyers are looking out for themselves—not for patients. If you want to look out for patients, we could pass a bill tomorrow that will give every patient in America—external and internal review—a place where they can get a benefit determination. If they were denied, it could be overturned. At least, it could be reviewed by medical doctors—an independent panel. That could be binding. We can do that. We can pass that overnight. They would have new, needed additional protections.

No; we want to go a lot further than that. We want to be able to take not only the HMOs but also take employers to court and be able to sue them for everything they have with no limit, and no caps. As a matter of fact, we want to be able to choose under this bill between Federal court and State court, whichever is best, with no caps. We might be able to do pretty well.

The lawyers are looking out for themselves—not for patients. If you want to look out for patients, we could pass a bill tomorrow that will give every patient in America—external and internal review—a place where they can get a benefit determination. If they were denied, it could be overturned. At least, it could be reviewed by medical doctors—an independent panel. That could be binding. We can do that. We can pass that overnight. They would have new, needed additional protections.

We are hearing a lot about “fixed” in this bill. Employers, beware. If we don’t pass this amendment or something close to it, employers, beware. The majority leader says to pass it next week. I would love to conclude this debate by next week. But if you make all employers
well, Missouri passed a good patients’ bill of rights. She was very proud of that. I compliment Missouri. I don’t know what is in Missouri’s law. But I compliment the State of Missouri for passing a good patients’ bill of rights.

I do not disagree with Senators Moynihan, but in the bill that we are passing, the patient protections are going to supersede whatever the State of Missouri did—as a matter of fact, whatever any State has done. There are over 1,100 patient protections that differ from what we have passed. No matter what your State has done, we are getting ready to pass a bill which says that may not be good enough because if the State of Missouri or Oklahoma or Alaska didn’t pass patient protection that is substantially equivalent and as effective as we have proposed under this bill, then you are in trouble. It doesn’t qualify. It is not good enough. It is going to be replaced with this.

As a matter of fact, you almost have to have identical language in this bill for the State protections to apply.

Another way of saying it is the State has to adopt what we are passing. You might say that is fine. I am sure we are passing good protections here. Maybe we are. Maybe they are better. Maybe they are not.

Who will be determining if these protections are better, or if the State protections are better than these? The Government is. Somebody elected? No. It would be bureaucrats that have never had a patient. They have never been a patient. They have never been in the real market. No one really has any idea about how much they really cost.

We are saying to the State, whatever you have, it has to be as effective as these, even though we don’t know if these are effective or not.

Talk about a bad example of government knows best, that is exactly what we are doing with this bill. We will have an amendment that addresses that in the course of the debate next week.

One other comment I want to make deals with the issue of coverage. I have kind of alluded to it. This bill says it doesn’t cover anyone. I have heard several people say that. But if they say that this bill covers all Americans, I assume they are not very knowledgeable about the bill. This bill doesn’t cover all Americans. We had a conference this morning. One of my colleagues hit his head. I said: Be careful. You can’t sue. You can’t sue the Federal Government.

We are getting ready to mandate on the private sector rights and privileges that we don’t have as Senators or as Federal employees.

If we took a poll amongst Federal employees and asked “Do you believe your health care is pretty good?”—my guess is most people would say yes. We get to choose from a lot of health plans.

Guess what. You can’t sue your employer. This bill doesn’t say the Federal Government can be sued by employees. Fine. Private sector, go out and sue your employer. Sue your HMO. Can you sue your HMO if you are a Federal employee? No. You cannot. You can sue to get a covered benefit. You can do that in the private sector right now.

What people want is to get into a lawsuit lottery where they can go for millions of dollars of excess covered benefits. You can say, I sue. If you want to have coverage for a benefit that you are not currently entitled to, you can sue for that today. This bill doesn’t cover Federal employees.

This bill doesn’t cover the lowest income Americans. What did you say? I said this bill that we have before us doesn’t cover the lowest income Americans. It doesn’t cover Medicaid.

Think about that. We have a Federal insurance program called Medicaid. This bill doesn’t apply to Medicaid. We don’t care about low-income Americans. We don’t want to make these protections so magnificently that we are giving these to the private sector, and they won’t cost anything? So we are going to have this mandate on the private sector, including liability, but we don’t have it for low-income people? Does that make sense? We love seniors, so I am sure this benefit applies to seniors. I read through the bill and, much to my chagrin, this bill does not apply to Medicare. Wow. I know I heard President Clinton say we are going to make these patient protections apply to Medicare. These protections do not apply to Medicare. Somebody in Medicare cannot sue the Federal Government. Somebody in Medicare cannot sue for unlimited damages through their employer.

I know I heard President Clinton say I already instituted an executive order which allows these protections to apply to Federal employees in Medicare, but it did not happen. He did a little something, but it did not apply anything like this bill. It was not nearly as extensive or expensive.

If we are trying to apply these patient protections to all Americans, we sort of left out a few people. We left out Federal employees. That is interesting. Employees in the State of Alaska, the Governor of Alaska, the State legislature, they have to comply. These benefits must apply to State employees in every State of the Union but not to Federal employees. Wow. We have a heck of a deal.

And, oh, yes, they have to apply to every health care plan in America, every private-sector health care plan in America but not the VA. These benefits do not apply to veterans in our hospitals. These benefits do not apply to Indians in the Indian Health Service. These benefits do not apply to Federal employees. They do not apply to Medicaid. They do not apply to low-income people. So when my colleagues say we want these to apply to all Americans, they have not read their bill.

They do not apply to union members either, not for the duration of their contract. If you renegotiate your contract by next summer—and it could be a 10-year contract—you would not be covered in this bill for 11 years. We are going to apply it to everybody else in the private sector, but we are going to have an exemption for our friends in the unions. Wow. That is interesting. So I just make that comment.

I think this bill is aimed, like a gun, at the heads of employers. Private sector, look out. Trial lawyers are after you. They are not just after the HMOs, they are after employers as well. We can fix that by adopting the Gramm amendment. We can exempt employers and make it nice, clean, and straightforward. If you want to exempt employers, vote for this amendment.

Employers, if you want your Members of the Senate to exempt you, if you want to escape being strapped with this unlimited liability, I would urge you to contact your Senators between now and Tuesday and say: Please pass the Gramm amendment. It will have a real effect. It will duplicate the Texas law that exempts employers. So we can make a difference.

Also, if seniors think all these great patient protections we are lauding so much are very good things, you might ask them: Why are we left out of this bill? If this is so good for the private sector, why don’t we do it for the public sector as well? It seems like we have a little habit around here, every once in a while, of saying: It is just fine...
to sue the private sector. We can put all kinds of mandates on them. So what. Oh, but we will not do that to us. I am not sure I agree with that. We may have to have an amendment to clarify that as well.

This is in my opinion, is fatally flawed. We are going to try to amend it to improve it. I very much want to put a bill on the President's desk in the not-too-distant future that he can sign and that we will be proud of. Maybe Senator Kennedy and I can be shaking hands behind him saying we have a good bill that really does protect patients but in the process does not threaten and scare employers.

I think that is possible. I do not think it is in this bill. I think President Bush is exactly right in saying this bill would cost too much. The cost of this bill could increase health care costs 8 or 9 percent over and above inflation in health care, which right now is 13 percent nationally. That is about 22 percent of small business. Businesses and employees cannot afford another 8 or 9 percent on top of already very high medical costs.

So this bill needs to be fixed. It needs to be improved. One giant step toward doing that would be the approval of the pending amendment that we will be voting on some time Tuesday.

So I urge my colleagues to support the underlying amendment. We will come up with additional amendments to improve this bill in relation to liability and contracts. This bill just happens to have a section that says you shall not be bound by the contract. That is interesting. It means it is totally unlimited in what this bill may cover, what somebody may have to pay for, whether it is contractual or not. We will try to fix that as well.

Hopefully, we will improve this bill to the extent that it will be a good bill worthy of the President's signature and one where we can say we did a good job and deserve a bipartisan bill that will improve patient protections for all Americans.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. Sterns). Will the Senator withhold that request?

Mr. NICKLES. I withhold it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I would like to follow on the comments made by my good friend, the senior Senator from Oklahoma, relative to the bill before this body.

I come to this Chamber as a Senator that represents a State that does not have a single HMO. As a consequence, with our small population, spread over a large land mass, I do not expect to see many HMOs moving into Alaska anytime soon. But I think this fact has led me to perhaps have an objective view, to look at this legislation with more neutral eyes. And what I see troubles me. I think it should trouble all Americans.

We do have a crisis in our health care system. Right now, there are 42.6 million Americans who are uninsured. This is 13 percent of the most basic coverage and must continually worry about how they will pay for health care services.

Will they become sick and fall into a situation where they cannot receive proper medical attention? Will they become hospitalized but have their hospital bills drive them into bankruptcy? Should they pay their doctor bills or pay their rent? Which is it? These are the real concerns facing 1 out of every 6 Americans.

With such a staggering number of uninsured, and such real difficulties they could face, why have the proponents of the bill so cavalierly shrugged off the who are at risk of this Patient's Bill of Rights? For every 1 percent increase in premiums, 300,000 more Americans will be faced with the reality of being uninsured. That is 300,000. The Congressional Budget Office has estimated that the McCain-Kennedy bill lacks a specialist, the patient can go outside the network for no additional charge. Plan A will lack a specialist, the patient can go outside the network for no additional charge.

The bill just happens to have a section that says you shall not be bound by the contract. That is the real problem. And there is real concern for all of us. And don't think there won't be a cost for those individuals who are still lucky enough to retain health care insurance. There would be a cost.

Last year, the average family spent $6,351 on health care expenses. That payment is expected to now go up 13 percent to more than $7,400, even without the McCain-Kennedy bill. If it is enacted as it is currently drafted, those families would have to take on even more financial burdens. Newly uninsured individuals will still receive some modest level of care through expensive emergency room visits or hospitalizations. If they are unable to pay, however, this bad debt will be passed on to those among us, and, as a consequence, access to emergency care will also pick up a significant share. We will all pay more when more and more care is delivered to uninsured individuals.

I have talked to some of my constituents in Alaska. One thing is perfectly clear. They want quality health care for their families, not a prime slot on the local court's docket.

Let's not be coy about who is really pushing this legislation. It is the trial lawyers, and the trial lawyers smell blood in the water.

I applaud Senator Frist and Senator Breaux, and others, for putting forward a more well-thought-out Patients' Bill of Rights. They have this part right: Americans want to see their doctor and their specialist in a timely and appropriate manner; they do not want to see their employer, who has the ability and scope and contracts. This bill just happens to have a section that says you shall not be bound by the contract. That is the real problem. And there is real concern for all of us. And don't think there won't be a cost for those individuals who are still lucky enough to retain health care insurance. There would be a cost.

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I am grateful that we are debating this bill. I am also grateful that this bill will be subjected to an amendment process. We have a lot of work to do. The first thing we should do is to make sure that employers are not subject to liability simply because they want to care for their employees. Together we can make this a true Patients’ Bill of Rights bill. I am committed to having a solid piece of legislation sent to our President for his signature.

NOMINATION OF J. STEVEN GRILES

Mr. MURKOWSKI. Mr. President, I am very concerned. The Energy and Natural Resources Committee has oversight of the Department of the Interior. As a consequence, we have had the responsibility of holding hearings on the nomination of various individuals for the Department of the Interior.

It is rather ironic that the only individual at the Department of the Interior who has been cleared by the Senate in its entirety is Secretary of the Interior Gale Norton. We have had a situation with regard to the Deputy Secretary who has been cleared by the Senate. The Secretary of the Interior who has been cleared by the Senate. I wonder why.

Mr. Griles was nominated on March 9 by our President. Hearings were held on May 16, as I chaired the Energy and Natural Resources Committee. He was reported favorably out of the committee by a vote of 18-4 on May 23 of this year. All this was prior to the switch by Senator Jeffords who made his announcement on May 24. At that time, we immediately began to try to move the nomination. The minority also tried to get a time agreement.

According to the information we have from the floor staff, Griles was cleared on the Republican side on May 23. In an executive session on May 23, we did move one nomination. On May 24, we moved 19 nominations. On May 25, we moved 33 nominations. On May 26, we moved 8 nominations. In each case, Griles was cleared by the Republican side but objected to by the Democratic side. I wonder why.

During this period, a unanimous consent agreement was offered to allow for 2 hours of debate and a vote—the Democratic side said they needed 2 hours—with consideration the week we were going to return from the Memorial Day recess.

That was again rejected by the Democrats, as was a modification that deleted the time certain and only included the time limitation. At that point, it was clear that the Democrats would control the floor and the timing on our return.

Yet in executive session on June 14, we cleared three additional nominations, but the Democrats would not clear Mr. Griles. Why?

As of today, Friday, June 22, Mr. Griles has been pending for 30 days without even a time agreement. Even if the majority leader wants to hold consideration of further nominations hostage in the sense of allowing resolutions, an agreement on time for debate has nothing to do with the resolution and the actual scheduling of the debate.

Who suffers by this politicizing? Obviously, the Department of the Interior as a functioning body, and the public whom the Department of the Interior serves. We have a new Secretary, again, the only person down there who is confirmed. She needs help. I encourage the leadership, the Democratic side to let this nominee go. He has not been nor is he a part of the general holdup on the other nominees because action was taken on him prior to the change in the leadership in the Senate.

I am kind of amused by some of the comments of my colleagues on the other side who indicate a puzzlement, saying there have been no attacks on Griles. They simply have said all the nominations are on hold while the Senate reorganizes. The switch of the Senator from Vermont.

I think the explanation I have given is not only accurate but gives thought to some of the excuses we have heard from the other side as to their justification. There is no justification.

ENERGY

Mr. MURKOWSKI. Mr. President, I rise to discuss a matter I know is very close to the interests and the heart of my colleague who occupies the chair. That is the issue of energy.

As we look at energy in view of the calendar, it is quite obvious that while energy appears to be the No. 1 issue in the minds of most Americans today, it certainly is not on the minds of the leadership in the Senate. Energy is not even on the calendar.

It is my understanding, after the Patient’s Bill of Rights, we will probably go to a supplemental. We may have the patients’ Bill of Rights, we will probably go to a supplemental. We may have the patients’ Bill of Rights, we will probably go to a supplemental. We may have the patients’ Bill of Rights, we will probably go to a supplemental.

That is the issue of energy.

Mr. President, I have a chart here that shows why things are different, why this crisis exists. Anyone who suggests there is no crisis is not being realistic.

This is America’s energy crisis today. It starts with our increased dependence on imported oil. We are importing 60 percent of the total oil we consume in this country. In 1973, when we had gas lines around the block, when we had the Arab oil embargo, as a consequence of that, we were 37-percent dependent. We created a Strategic Petroleum Reserve. We felt that we never wanted to exceed 50 percent in imports because it would affect national security. Now we are 56-percent dependent and the Department of Energy says that it will be 66 percent by 2010.

Secondly, natural gas—which we have taken for granted for a long, long time—was about $2.16 per thousand cubic feet 14 months ago. Today it is $1.5, $5, $6. It has quadrupled. We are looking for electric energy from the resources of nuclear.

The nuclear industry—well, we haven’t built a new nuclear plant in more than 10 years—nearly 20 years. We licensed a plant approximately 10 years ago. We are not doing anything in that area.

We are concerned about air quality and emissions and we are concerned about Kyoto, global warming, climate...
The technology simply doesn’t exist. We haven’t built a new coal-fired plant in this country since 1995. Suddenly, we find that our electric transmission lines haven’t been expanded, our natural gas transmission lines haven’t been expanded. That is why we have an energy crisis. That is why it is different than ever before. It has all kinds of complex teeth like the perfect storm.” Everything has come together because we haven’t had a policy. We haven’t acted and now the American public is saying: What’s going on? Why can’t Congress fix it? Congress is pointing the finger at everybody and every-thing, blaming each other instead of moving ahead in a bipartisan manner.

The Democratic leadership refuses to put energy on the priority calendar for this body. I find that unconscionable. American energy in my view is nowhere on the Democrats’ list. I think, by holding up this process, they are holding up the prosperity of this Nation. One of our freedoms is to have plentiful and afford-able supplies of energy. Our standard of living, to a large degree, is de-pendent upon that. Do we want to change that standard of living? Clearly, we do not. We want to advance that standard of living by bringing on afford-able energy, alternative energy.

A simple, well, conservation is the answer. Conservation is im-portant. We can do a better job, but it will not make up the deficiency that exists. Some say alternatives. Some say renewables. But they constitute a very small percentage, even if you include hydroelectric, which is a renew-able. Renewables constitute less than 4 percent of the total energy mix in this country. I wish they contributed more. I am just afraid the Democrats would rather see this energy issue as a par-tisan issue, as opposed to a bipartisan victory for both Republicans and Democrats. I can only reach the conclusion that the Democrats are pulling the plug on the energy solution, fig-uring they are better off to attack the President, the White House, big oil, than to address the problem. If they do, we are all going to be left in the dark. I thank the Chair, and I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk pro-ceeded to call the roll.

Mr. REID. Mr. President, I ask unan-i-mous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unan-i-mous consent that I have a letter which I will read today to share with my colleagues an historical event which took place at the Chrysler Museum in Norfolk, VA on May 22, 2001. The event memorial-izes a remarkable chapter in American his-tory that occurred after World War II. It concerns the very touching story of the Survivor’s Talmud Exhibit which was done in honor of a truly great man, Leonard Strelitz, by his close friends. The story of the Survivor’s Talmud speaks to the strength and resolve of a very determined people of Jewish faith some 54 years ago; and, to the resource-fulness and caring of a handful of U.S. Army soldiers.

Today, I place in the CONGRESSIONAL RECORD excerpts from the ceremony that convey the historical and spiritual splendor of this extraordinary tale to include: the Invocation, by Rabbi Dr. Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach; Remarks and Benediction by Major General Gaylord T. Gunbus, Chief of Chaplains, U.S. Army; and Re-marks by Mr. Marvin Simon and Mr. Walter Segaloff, hosts of the evening’s events.

Due to Senate business on the day of the ceremony, I was not able to attend so I am also placing in the RECORD a copy of a letter I wrote to be read dur-ing the ceremony.

As this magnificent exhibit tours throughout the country, I hope it will instill in younger generations the crit-ical importance of preserving human rights, individual dignity, and freedom. It will remind future generations of the incomprehensible sacrifices of the World War II generation and their need to always look to prevent a re-occurrence in the future.

I ask unanimous consent to print the material to which I referred.

There being no objection, the mate-rial ordered to be printed in the RECORD, as follows:

REMARKS OF RABBI DR. ISRAEL ZOBERMAN Mekor Rachaim, Source of All Life, Our God, Goodness’ Guide, Dear and Distin-guished Friends and Guests:

We have gathered on a momentous occas-ion at this enchanting setting of the Chry-sler Museum of Art, dedicated to creative celebration of life, mindful that our Norfolk and Hampton Roads are home to the military might for sacred free-dom’s sake. One of the weapons of superpower, allowing the human enterprise to flourish into a blessing. Here from whence our heroic sons and daughters sailed to brave history’s sharpest storm of World War II. We recall with lasting gratitude and devotion our proud nation’s sacrificial contribution in blood and spirit to ending the threat to cre-ation of the Nazi kingdom of death, with its genocidal destruction of a third of the Jewish people and untold suffering to humanity.

I stand before you, profoundly astounded, son of Polish Holocaust survivors who spent from 1947 to 1949 with my family in the Displaced Persons Camp of Wetzlar at Frankfurt, bene-fit of a much needed embracing embrace at a trying time of turmoil and transition. The printing for us of the Talmud on German soil facilitated by the U.S. Army, gave the Jewish soul the Jewish source of love we shall always cherish. We knew that our miraculous physical perseverance was ultimately rooted in preserving our spiritual heritage. Our nation’s final target, seeking to eradicate from the planet Earth the essential Judeo-Christian values and ideals.

Honoring our U.S. Army and government through affirming with special friends the blessed memory of beloved Leonard Strelitz was acquiring a truly touching testimony to education that legendary Babylonian Talmud publication is most appropriate indeed, along with this being the beginning of the traveling exhibit sponsored by the American Jewish Historical Society. Leonard’s tow-ering stature propelled him to rise to new heights of commitment, caring and compas-sion. A great American, the competition was fulfilled in him with both the lion and lamb dwelling in his big heart of a true leader with commanding presence. He singularly possesses the survivors spirit as a tough lion, national chairman of the United Jewish Appeal aiding the em-battled State of Israel, as well as a tender lamb in the heart of all who knew him.

On behalf of the entire Diaspora and the crown jewel of the Leonard R. Strelitz Diabe-tes Institutes at Eastern Virginia Medical School, placing personal success to serve the public agenda, most ably prodding others to follow suit, for none could refuse him.

To him, his dear wife Joyce who nourished and sustained him and the entire family, our heartfelt thanks. Leonard’s inspiring legacy is forever interwoven with our tradition’s best impulse and the noblest in our nation’s character and spirit. We embrace the faith’s abiding message to all of shalom’s promise, purpose and peace. Let us say Amen.

Rabbi Dr. Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach, is President of the Hampton Roads Board of Rabbis and Chairman of the Rabbiora’s Religious and Educational Jewish Federation of Tidewater. He was born in Kazakhstan in 1945.

SPEECH AND BENEDICTIO BY MAJOR GENERAL GAYLORD T. GUNBUS

On behalf of the United States Army, it is with great pleasure that I accept this plaque.

Thank you for this conspicuous recognition for the service our Army rendered to the Jewish community in post War
Germany. It is an honor to be here today to acknowledge the events that led to the printing of the Survivors Army Talmud and to acknowledge the role United States Army leaders had in making the Talmud printing possible.

Most Americans are unaware of the history and story, which we have heard and celebrate.

In Europe in the mid 20th century, a site of the worst carnage and evil in the modern period, for years at great cost a cost few of us were able to witness first hand.

This Great War of liberation against the forces of totalitarianism, posed for the entire world the problem of what would come after.

And, as we read, in Proverbs (6:22–23) “When you walk, it will lead you. When you lie down, it will watch over you; And when you awake it will talk with you. For these commands are a lamp, this teaching a light.”

It is with great pride in the values, which our nation represents, that I stand here today. The Army of our nation in post war Europe was born today, more than a mighty physical force.

Similarly, the printing of the Talmud in Post War Germany is more than simply the printing of books. The event for which we gather today to commemorate and honor, the restoration of the Jewish religious and cultural life in Germany after the defeat of Nazi Germany is a reflection of many individual labors and courage. Some of these leaders were men in uniform some were not, some were religious leaders some were not, but each was connected by a common commitment to turn back the tide of darkness that had spilled across the continent.

This event symbolizes the values and principles of our nation and the institution that I serve, the United States Army.

It would be my hope that every citizen could read and read of the Army, the Army of our nation in post war Europe was born today, more than a mighty physical force.

The Army was showing the very best side of American humanitarianism in its handling of a civilian refugee situation, a task for which we ourselves actually have very little opportunity to demonstrate this than by providing for the survivors remaining in Germany.

Part of restoring their lives meant reinvigorating Judaism. Remember, along with humans, the Nazi’s burned Jewish books, synagogues and schools. By 1945, not one complete set of the Talmud could be found in Europe.

After Truman’s memo to Eisenhower, conditions got much better followed by a high level mission of American Jewish leaders including Rabbi Stephen Wise who visited the camps in a show of support for the DPs and Rabbi Wise thanked the U.S. Army and General McNary when he said “At its highest levels, the U.S. Army has become sincerely and deeply involved in the effort to make camp life bearable, restoring freedom and dignity to the survivors.”

The Army was showing the very best side of American humanitarianism in its handling of a civilian refugee situation, a task for which it was not trained.

With the U.S. Army’s encouragement, a “Charter of Recognition” was written. The U.S. Army was saying something that no other arm of any allied government was yet willing to say—that the Jewish DP’s must be recognized as different. All other DP’s could be repatriated to a homeland; only the Jews were not.

The difference could be remedied by a political decision beyond the Army’s capability. But in the meantime, the Army would turn its efforts to the task of being recognized someday as the DP’s homeland. Thus, the most important military arm of the United States was accepting the basic principles of the Zionist movement. How remarkable!

I quote from part of Rabbi Herbert Friedman’s “Roots of Hatred.”

He writes “No matter which camp in Germany I visited, I kept hearing the name of Babenhausen. It became a symbol for restlessness, for the huge problem of being stuck in camps without a solution for the future. The question grew more persistent: “When will we get to Palestine?”

Let us hope that in the future, I was able to help supply an answer. David Ben-Gurion, chairman of the Jewish Agency, was in Paris, en
route to Switzerland. He wanted to visit a refugee camp—not a model operation, but one in which he could see the true, rough fiber of DP life. I took him to Babenhausen.

Ben-Gurion was clear and unambiguous in his leadership of the Jewish population of Palestine (about 600,000 at that time) and the leaders of world Jewry’s thrust toward a sovereign state. He believed—the smart (and, if you will, the bantam rooster—the charismatic, world-famous symbol of the Zionist force.

For the occasion, we utilized the camp’s largest building, with a small stage at one end and standing room for thousands of people. Ben-Gurion’s presence did indeed produce an electric wave of excitement. So many DP’s crowded in almost all of the camp’s 5,000 residents were pressed into that area. They knew that this dynamic, white-haired man was their link with a history they thought they had forgotten them.

For the first time, there were smiles inside the gates of Babenhausen, and then came the inevitable question—poignant, pleading, uncertain, waiving, but persistent: “When, Mr. Ben-Gurion? When will we go to Palestine?”

As Ben-Gurion listened to those questions, he began to weep, the only time in my long relationship with him I saw that happen. The tears fell slowly. He spoke through them, quietly but firmly. I remember his words almost exactly:

“I come to you with empty pockets. I have no British entry certificates to give you. I can assure you that you are not abandoned, you are not alone, you will not live endlessly in camps like this. All of you who wish to come to Palestine will be brought there as soon as is humanly possible. I bring you no certificates—only hope. Let us sing our national anthem—Hatikvah which means Hope.”

In that way, the people of Babenhausen understood that their unloved camp was not the end of the line but a way station on the road to freedom.

After the apparent absence of God during the maniacal years of their torment, the survivors were not strong in religious faith. But they clung to each other desperately and were loyal to their peoplehood. And, thus the reason we are here tonight—to honor the U.S. Army Chaplains of the American Zone of Occupied Germany, for their understanding, sympathy, and the morality of their conduct and their help in providing books of traditional significance.

The rest of this remarkable story which 54 years later brings us to tonight is left to Marvin Simon, Senator John Warner, and our guest speaker—Lucian Truscott IV and to Major General Gaylord T. Gunhus, Chief of the U.S. Army Chaplains.

I now call on another giant of our community—Senator Robb—a friend of many of you—a long time proven friend of the Jewish people—Senator Robb

INTRODUCTION OF SENATOR JOHN WARNER

In 1946, a delegation of DP rabbis approached General Joseph McNarney, commander of the American Zone of Occupied Germany, asking that the Army publish a Talmud. McNarney understood the symbolic significance of their request and received assistance from General Lucian Truscott who had succeeded General George Patton as commander of the 3rd Army.

The grandson of General Lucian Truscott is Historian Lucian Truscott IV and we are pleased that he is with us this evening as our keynote speaker.

Ben-Gurion, whose father was a West Point graduate and Colonel in the Army, is the oldest of five children. Mr. Truscott graduated from West Point in 1969, and then volunteered to help himself by revealing a serious problem with heroin abuse that existed in the service, a revelation that at first did not sit well with the Army and led to his discharge.

Lucian Truscott subsequently became a investigative reporter for the Village Voice, then the best author of Dress Gray, considered one of the best novels ever written about West Point. It became a television mini-series. Mr. Truscott then wrote Dress Blue, a riveting novel about Vietnam. He has also written screenplays and today lives in Los Angeles.

Please welcome Lucian Truscott IV.

INTRODUCTION OF JOYCE STREILITZ

It is my pleasure now to bring you someone who needs no introduction to this audience. Joyce Streilitz. Tonight the benefactors would like to thank the following for tonight would not have been possible without their invaluable past support and support in the coordination of the Survivors’ Talmud exhibit and dedication.

Thank you to:

American Jewish Historical Society, Executive Director, Dr. Michael Feldberg;
Chrysler Museum of Art, Director Dr. William T. Hennessey and a truly wonderful staff;
Rubin Cawley and Associates, President Joel R. Rubin;
Rabbi Michael Panitz, Temple Israel in Norfolk;
Headquarters TRADOC, Ft. Monroe;
Ft. Eustis Public Affairs;
Ft. Story Public Affairs;
Mr. Mark Goldstein, Executive Director of the Tidewater Jewish Federation and Ms. AnnaBelle Sacks, President of the Tidewater Jewish Federation;
Dr. Arthur Kaplan—President of Tidewater Jewish Holding;
And last Philip Rover, Executive Director of the Tidewater Federation who did a truly wonderful job in a leadership role, his organizational skills, follow through and support, made doing this project a pleasure.

Thank you Philip, Joel, Rubin, Rabbi Panitz, Dr. Arthur Kaplan and Philip Rover.

U.S. SENATE, Washington, DC. May 22, 2001. To the Special Participants and Guests of the Survivors’ Talmud Dedication Ceremony and members of the Streilitz Family:

It is with extreme disappointment that I pen this note to be read in my stead at today’s ceremony. I had planned until one hour ago to be with you but the only thing senators must do is vote, and here I must remain—voting on legislation to provide federal tax relief.

My thoughts, however, are truly with you as the Survivors’ Talmud Exhibit is dedicated and a long awaited ‘Thank you’ is delivered to the U.S. Army. This extraordinary story speaks to the strength and resolve of a determined people—Israel, in honor of a great man, Leonard Streilitz.

In a war-ravaged Europe, Army soldiers managed to gather scarce resources, that amounted to a ‘sticker that says, “An armed society is a polite society.’ While I am all for improving civility, I don’t believe that arming our citizens is the best way to achieve it. And, I hope that I don’t have the opportunity to be proven correct.

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 in March of this year. 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.

I would like to describe a terrible crime that occurred July 26, 1990 in New York City. A gang of men shouting anti-gay slurs attacked three men. Seven men were arrested in the attack. One of them was slashed on the face and another was cut. The assailants picked up the third and threatened to throw him in the Hudson River.
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.

ADDITIONAL STATEMENTS

THE BOSTON CELTICS’ “HEROES AMONG US” AWARD

Mr. KENNEDY. Mr. President, today I have the special privilege of acknowledging forty-seven extraordinary individuals who have received this year’s “Heroes Among Us” Award from the Boston Celtics.

This past season was the fourth consecutive season that the Celtics have honored these heroes at home games in recognition of the selfless contributions they have made to their communities. Over the last four years, the Celtics have honored over one hundred and fifty men and women with this prestigious award, which is one of the leading community-outreach programs that the Boston Celtics Charitable Foundation has initiated.

The Foundation was established to improve the lives and opportunities of young people in New England through local outreach programs. Members of the Celtics are actively involved in these initiatives and I commend their leadership and dedication to this worthwhile activity. The Celtics deserve great credit for all they have done to promote community service programs which have benefited Boston’s public schools, raised funds for local neighborhoods, and have given the area’s youth the opportunities they need and deserve in order to become active and responsible members of society.

These heroes are men and women who represent the great potential of Massachusetts. Their common tie is the commitment to community service that exemplifies the best of our country. The forty-seven heroes honored by the Celtics this year are role models for all of us, and they are living proof that one person can make a difference in the lives of others. These extraordinary individuals saw the opportunity to improve the lives of their fellow citizens, and their leadership has helped brighten the lives of countless others in our community.

I commend the Celtics and all of these “Heroes Among Us” for their contributions and achievements. I ask that the names of this year’s 47 “Heroes Among Us” may be printed in the CONGRESSIONAL RECORD.

The list follows:

5. Dr. Stephan Ross.
7. Ira Kittrell.
10. John Burke.
11. Mark Friedman.
12. Deb Beneman.
15. Matthew Kinel.
16. Officer Bill Baxter.
18. Rocky Nelson.
22. Robin & Caitlin Phelan.
25. George Greenidge, Jr.
26. Maria Contreras.
27. Lieutenant Paul Anastasia.
29. Barbara Whelan.
30. Judge Reginald Lindsay.
31. Dennis Fekay.
32. Sarah-Ann Shaw.
34. Anne Carrabino.
35. Deborah Re.
36. Officer Scott Provost.
37. John Iovieno.
38. Dan Doyle.
40. Pam Fernandes.
41. Al Whaley.
42. Matthew Pohl.
43. Anna Faith Jones.
44. Billy Starr.
45. Jette Bernier.
46. Laura Goldstein.
47. Nikki Flionis.

IN MEMORY OF CALIFORNIA SUPREME COURT JUSTICE STANLEY MOSK

Mrs. BOXER. Mr. President, today I reflect on the career of one of the most respected and influential members of the California Supreme Court, Justice Stanley Mosk.

Before his death at the age of 88, on June 19, 2001 at his home in San Francisco, Justice Mosk was the longest-serving member in the Court’s 151-year history. He leaves an exceptional legacy that will be felt for many years in California and beyond. Among his many contributions he continuously worked, from the beginning of his career to the very end, to protect the civil rights and liberties of Californians and all Americans. He will be remembered for his integrity, his intellect and for his unwavering commitment to assuring that our courts and laws are based on the principles of justice and equality for all.

Stanley Mosk was appointed to the California Supreme Court by Governor Edmund G. “Pat” Brown on August 8, 1964. He served on the Court for nearly 37 years. He began his career in the law during the Depression. Not many years after graduating from law school he rose to become executive secretary and legal advisor to California Governor Culbert Olson. He was appointed to the State Superior Court bench in 1942. At the time of his appointment, he was 31 years old, the State’s youngest Superior Court Judge. He served on the Superior Court bench for some 16 years, a tenure interrupted only by military service during World War II. He went on to win statewide election as California Attorney General, a position in which he served for 6 years, and was the first practicing Jew to be elected to that office. As attorney general, he fought for civil rights reforms and to strengthen antitrust laws.

During his tenure on the Supreme Court, Justice Mosk wrote over 1,600 opinions many of which of had a profound influence on California law. And were later echoed in opinions of other States’ courts and the U.S. Supreme Court. He was often a man ahead of his time. As one example, in 1978 he wrote an opinion which outlawed racial discrimination in jury selection. The U.S. Supreme Court upheld the same principle 8 years later. Justice Mosk also worked to promote the State constitution as an independent document, guaranteeing essential rights, distinct from the U.S. Constitution. Many States followed his lead.

To quote current California Supreme Court Chief Justice Ronald George, “Stanley Mosk was a giant in the law.” Although he is no longer with us, his passion for justice will live through his rulings for years to come.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(Message printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:48 a.m., a message from the House of Representatives, delivered by Mr. Hayes, 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. 2217. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:
POM-115. A joint resolution adopted by the Legislature of the State of Maine relative to Medicare supplement insurance policies; to the Committee on Finance.

**Joint Resolution**

Whereas, prescriptive drug laws provide essential treatment to all our citizens in this country; and

Whereas, retail expenditures on prescription drugs is approximately doubled over the past 6 years; and

Whereas, citizens in the United States often pay the highest prices in the world for prescription drugs; and these excessive prescription drug prices, access to such prescription drugs is often unobtainable to certain people confronting serious illnesses; and

Whereas, federal rules currently regulate uniform Medicare supplement insurance policies that are available for sale to people eligible for Medicare coverage; and

Whereas, coverage for prescription drugs through the federally regulated Medicare supplement insurance uniform A-J policies is very limited; now, therefore, be it

Resolved, That, we, your Memorialists, request that the United States Congress make a change to these rules and regulations to allow the development of Medicare supplement insurance policies offering greater prescription drug coverage than is currently available; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States and to each Member of the Maine Congressional Delegation.

POM-116. A resolution adopted by the Senate of the Legislature of the State of Pennsylvania relative to domestic violence; to the Committee on the Judiciary.

**SENATE RESOLUTION**

Whereas, Between 2 and 4 million women each year are victims of domestic violence nationally; and

Whereas, At least 800,000 Pennsylvanians are victims of domestic violence each year; and

Whereas, Domestic violence is a health care problem of epidemic proportions; and

Whereas, Medical professionals have a unique opportunity to intervene in domestic violence as they are often the first resource a battered victim seeks for help; and

Whereas, Health care providers can be a critical link to safety by offering support, information, education, resources and follow-up services to patients who are identified as victims of domestic violence; and

Whereas, Approximately only 1% of primary care physicians across the nation routinely screen for partner abuse when a patient is not currently injured; and

Whereas, We hereby recognize the importance of screening patients for symptoms of domestic violence in enacting Act 115 of 1998 that provided the Domestic Health Care Response Program; and

Whereas, Act 115 of 1998 made Pennsylvania the first state in the nation to establish a network that funnels domestic violence sexual assault domestic abuse funding to those who need it the most; and

Whereas, The Family Violence Prevention Fund of Pennsylvania as the only state to receive an “A” grade for laws regarding health care response to domestic violence; and

Whereas, A team from Pennsylvania has joined teams from 14 other states and tribes and the Family Violence Prevention Fund to create innovative and sustainable health care responses to domestic violence on a national level through the National Health Care Standards Campaign; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania recognize June 12, 2001, as “National Domestic Violence Health Care Standards Campaign Kick-Off Day” in Pennsylvania; and be it further

Resolved, That the Senate encourage Pennsylvanians and health care professionals in this Commonwealth to learn more about the signs, prevention, and treatment for domestic violence; and be it further

Resolved, That the Senate urge the Congress of the United States to recognize the “National Domestic Violence Health Care Standards Campaign” and to promote the screening of patients for domestic violence by health care professionals across the nation; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-117. A resolution adopted by the Senate of the Legislature of the State of Pennsylvania relative to water pollution; to the Committee on Appropriations.

**SENATE RESOLUTION**

Whereas, The biggest water pollution problems facing the Commonwealth of Pennsylvania today is polluted water draining from abandoned coal mines; and

Whereas, More than 150 of the streams that do not meet water quality standards in this Commonwealth are affected by mine drainage; and

Whereas, This Commonwealth has more than 250,000 acres of abandoned mine lands, refuse banks and old mine shafts in 45 of the 67 counties, more than any other state in the nation; and

Whereas, The Department of Environmental Protection estimates it will cost more than $15 billion to reclaim and restore abandoned mine lands; and

Whereas, The Commonwealth now receives about $20 million a year from the Federal Government to do reclamation projects; and

Whereas, There is now a $1.5 billion balance in the Federal Abandoned Mine Reclamation Trust Fund that is set aside by law for the reclamation of the safety problems caused by old coal mines; and

Whereas, Pennsylvania is the fourth largest coal-producing state in the nation, and coal operators contribute approximately 10% of each mine to the fund by paying a special fee for each ton of coal they mine; and

Whereas, The Department of Environmental Protection and 39 county conservation districts through the Western and Eastern Pennsylvania Coalitions for Abandoned Mine Reclamation have worked as partners to improve the effectiveness of mine reclamation programs; and

Whereas, Pennsylvania is not seeking to rely on the Federal appropriation to solve the abandoned mine problem in this Commonwealth and has enacted the Growing Greener program which has provided additional money for mine reclamation activities; and

Whereas, Pennsylvania has been working with the Interstate Mining Compact Commission to improve the effectiveness of the Abandoned Mine Land Programs and other statutes to free more of these funds to clean up abandoned mine lands; and

Whereas, Making more funds available to states for abandoned mine reclamation should preserve the interest revenues now being made available for the United Mine Workers Combined Benefit Fund; and

Whereas, The Federal Office of Surface Mining, the United States Environmental
Louisiana congressional delegation.

Resolved, that the Senate of the Common-
wealth of Pennsylvania urge the President
and Congress of the United States to make the $1.5 billion of Federal moneys already ear-
mained from abandoned mine re-
clamation available to states to clean up and
make safe abandoned mine lands; and be it further
Resolved, That copies of this resolution be
transmitted to the President of the United
States, to the presiding officers of each house
of Congress and to each member of Congress from Pennsylvania.

POM-118. A concurrent resolution adopted by the House of the Legislature of the State
of Louisiana relative to the Estuary Restora-
tion Act of 2000; to the Committee on Appro-
priations.

HOUSE CONCURRENT RESOLUTION NO. 167

Whereas, the estuaries and coastal wet-
lands are vital to the ecological, cultural,
and economic well-being of the state of Lou-
isiana as well as many other states; and

Whereas, the estuaries and wetlands have
been deteriorating and action must be taken
to restore and protect these important re-
sources if they are to survive; and

Whereas, the state of Louisiana, in co-
operation with its federal and local partners,
has developed the Coast 2050 plan which pro-
vides a blueprint for restoring its coastal
lands; and

Whereas, the Congress of the United States
has enacted the Estuary Restoration Act of 2000
to provide resources and assistance for coastal
and estuary restoration; and

Whereas, the Estuary Restoration Act of 2000
also empowers communities, volunteers,
businesses, landowners, and public interest
groups to become stewards of coastal and
wetland restoration; and

Whereas, the Estuary Restoration Act cur-
rently authorizes up to fifty million dollars in
this fiscal year for coastal restoration:
Therefore, be it
Resolved that the Legislature of Louisiana
does hereby memorialize the Congress of the
United States to fully fund the Estuary Re-
stitution Act of 2000; and be it further
Resolved of this Concurrent Resolution be transmitted to the presiding
officers of the House of Representatives and the Senate of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-120. A concurrent resolution adopted by the House of the Legislature of the State
of Louisiana relative to the Southern Dairy Compact; to the Committee on the Judici-
ary.

HOUSE CONCURRENT RESOLUTION NO. 93

Whereas, dairy compact is an entity by
which states cooperate consisting of dairy
farmers and other interested parties band to-
gether to help the dairy industries in mem-
ber states; and

Whereas, the purpose of a dairy compact is
 to provide a safety net to dairy farmers by
maintaining stable milk prices; and

Whereas, having stable milk prices is im-
portant because the volatility in fluid milk
prices in the past few years has dealt a se-
vere blow to the Louisiana dairy industry; and

Whereas, under current conditions, Lou-
isiana is losing one to two dairies per year;
and

Whereas, a Northern Dairy Compact was
started approximately two years ago and has
been very successful in aiding the dairy in-
dustry in that region of the United States; and

Whereas, a resolution is pending before
congress to ratify a Southern Dairy Compact
of which Louisiana hopes to become a member;
and

Whereas, dairy compacts operate at no
government expense and are funded by the
farmers and processors of the dairy industry;
and

Whereas, the longer tows and deep-draft
vessels will require that both the St. Claude
and Claiborne Avenue bridges remain open
to allow the lock to be opened frequently; and

Whereas, the St. Claude Avenue Bridge
must be opened much more frequently than at present
because of the location of the new lock; and

Whereas, the longer tows and deep-draft
vessels must be moved at slower speeds, as
compared to vessels currently using the lock,
which will further extend the required bridge
closure time; and

Whereas, after analysis, it appears that
 such required bridge openings will occur six
times per day and each closure will last a
three-mile long traffic jam which will create
great hardships for the St. Bernard Parish
and Orleans Parish residents as well as all others who are among the eighty-five thou-
sand motorists who use these bridges each
day; and

Whereas, the United States Corps of Engi-
neers' traffic study included in the project
evaluation report appears to be based upon
data which might lead to serious incorrect
conclusions and that said study was used as
the basis for the selection of the Claiborne
Avenue Bridge for St. Claude Avenue and the revisions now
proposed for the Claiborne Avenue Bridge;
and

Whereas, the magnitude of the traffic prob-
lem and the possibility that an erroneous
selection of bridges may one day require the
state of Louisiana to completely fund nec-
essary corrections to this federal project are
concerns of the legislature. Therefore be it
Resolved, that the Louisiana Legislature
does hereby memorialize the United States
Congress to take all steps necessary to re-
place the proposed St. Claude Avenue Bridge
(LA 49) and the Claiborne Avenue Bridge (LA
99) in conjunction with the New Orleans
Inland Harbor Navigation Canal Lock Replac-
ment Project, with tunnels or fixed, high-rise
bridges to benefit residents of St. Bernard,
Orleans, and Plaquemines parishes and the
maritime industry and to withhold all future
funding of the lock replacement project until
the matter is reviewed and resolved by quali-
fied members of the Louisiana Department of
Transportation and Development, the United
States Coast Guard, and local rep-
resentatives of the State Coast Guard and local rep-
resentatives of the State of Louisiana;
and

Resolved, that the Louisiana Legislature
requests our federal elected officials to re-
quest the United States Army Corps of Engi-
neers to consider tunnels or fixed, high-rise
bridges, which are the canal crossing solu-
tions preferred for this project by both the

POM-119. A concurrent resolution adopted by
the House of the Legislature of the State
of Louisiana relative to the Gulf Hypoxia Ac-
tion Plan; to the Committee on Energy and
Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 129

Whereas, the Gulf of Mexico and the coast
of Louisiana are important natural resources
of the state of Louisiana and the nation; and

Whereas, by House Concurrent Resolution No.
94, the Regular Session of the Louisiana
Legislature expressed its concern about the
hypoxic zone in the Gulf of Mex-
ico, its biological and economic impacts, and
the risk that it poses to the ecology, econ-
omy, and culture and way of life of Lou-
isiana; and

Whereas, by House Concurrent Resolution No.
47, the Regular Session of the Louisiana
Legislature memorialized the United States
Army Corps of Engineers to consider tunnel bridges, which are the canal crossing solu-
tions preferred for this project by both the

POM-121. A concurrent resolution adopted by
the House of the Legislature of the State
of Louisiana relative to the Southern Dairy
Compacts; to the Committee on Environment and Public Works.
shipping industry and state motorists because either would eliminate the need for bridge curfews and provide for the uninterrupted flow of marine and vehicular traffic; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the United States of America and to each member of the Louisiana congressional delegation.

POM–122. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to Maurepas Swamp diversion from the Mississippi River; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION No. 86

Whereas, many of the swamps, marshes, and estuarine ecosystems of the southeastern part of Louisiana were created by the Maurepas Swamp and were nourished by the freshwater sediment and nutrients from the river; and

Whereas, these ecosystems have been de-clining since the river was levied for flood control and navigation which deprived them of the river's nourishment; and

Whereas, freshwater, diversion has become an important tool in restoring coastal wetlands and combating erosion and saltwater intrusion; and

Whereas, a river diversion into the Maurepas Swamp would also combat saltwater intrusion on the fringes of the area and help sustain and restore marshes that are now dying, subsiding, and breaking up; and

Whereas, a diversion located at the Hope Canal near Garyville could be designed to encourage water to fan out over a very broad area allowing the swamp to assimilate the river's nutrients and sediments, therefore minimizing the threat of algal blooms in lake Maurepas; and

Whereas, on occasion of heavy local rains, the diversion structure could be closed and the canal would then help to convey storm water runoff which is an aspect of the project that is very appealing to St. John the Baptist Parish officials concerned about flood control; and

Whereas, the issues that have been encountered in the operation of other diversion projects and dramatic changes in salinity that have concerned oyster growers and commercial fishermen, should not be a problem with the Maurepas Swamp diversion because the area directly influenced by the diversion is essentially a freshwater estuarine system: Therefore, be it

Resolved that the Legislature of Louisiana does hereby memorialize the United States Congress to support, with funding, the expedient implementation of the proposed Maurepas Swamp diversion from the Mississippi River; and be it further

Resolved that a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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. CONRAD (for himself, Mr. NICKLES, Mr. BREAUX, Mr. DOGAN, Mr. FITZGERALD, Mr. HATCH, Mr. HELMS, Mr. HUTCHISON, Mr. JOHNSON, Mr. KYL, Mr. SCHUMER, Mr. TORRICELLI, and Mrs. LINCOLN):

S. 1087. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Mr. SPECTER):

S. 1088. A bill to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER:

S. 1089. A bill to amend section 7250 of title 38, United States Code, to expand temporarily the United States Court of Appeals for Veterans Claims in order to further facilitate significant appeals to judges on that court, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself and Mr. SPECTER):

S. 1090. A bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of disabled veterans; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DASCHEL, and Mr. SPECTER):

S. 1091. A bill to amend section 1116 of title 38, United States Code, to modify and extend authorities on the presumption of service-connection for herbicide-related disabilities of Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GRAMM:

S. 1092. A bill to amend the Internal Revenue Code of 1986 to restrict the receipt of tax refunds in the case of certain dual-status aliens, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1093. A bill to amend title 38, United States Code, to exclude certain income from the Veterans' Benefits Act of 1954, as amended; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself, Mrs. MIKULSKI, Mrs. MURRAY, and Mr. INOUYE):

S. 1094. A bill to amend the Social Security Act to provide for a program of energy assistance for veterans and their families who have a household income up to 100 percent of the Federal Poverty Level; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. REED):

S.J. Res. 17. A joint resolution providing for congressional disapproval of the rule submitted by the Board of Governors of the Federal Reserve System of the United States by the Treasury Department to implement a rule under the Excise Tax Act of 1984; to the Senate Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 145

At the request of Mr. THURMOND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 270

At the request of Mr. BINGAMAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 270, a bill to amend title XVIII of the Social Security Act to provide a transitional adjustment for certain sole community hospitals in order to limit any decline in payment under the prospective payment system for hospital outpatient department services.

S. 336

At the request of Mr. BINGAMAN, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 336, a bill to amend title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services provided under a medical care program of the Indian Health Service or of a tribal organization are included in the optional Medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.

S. 571

At the request of Mr. THURMOND, the name of the Senator from Alaska (Mr. STEVENS) 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. 626

At the request of Mr. JEFFORDS, the name of the Senator from Maryland
THE BILL WE ARE INTRODUCING TODAY 

The bill we are introducing today follows:

S. CON. RES. 3

At the request of Mr. Feingold, the name of the Senator from New Hampshire (Mr. Smith) was added as a co-sponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S. Wisconsin and all those who served aboard her.

S. CON. RES. 42

At the request of Mr. Brownback, the name of the Senator from New Hampshire (Mr. Smith) was added as a co-sponsor of S. Con. Res. 42, a concurrent resolution condemning the Taliban for its discriminatory policies and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. Conrad (for himself, Mr. Nickles, Mr. Breaux, Mr. Dorgan, Mr. Fitzgerald, Mr. Hatch, Ms. Harkin, Mr. Johnston, Mr. Kyl, Mr. Schumer, Mr. Torricelli, and Mrs. Lincoln):

S. 1087. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements; to the Committee on Finance.

Mr. Conrad. Mr. President, I rise today, joined by my colleagues Mr. Nickles, Mr. Breaux, Mr. Dorgan, Mr. Fitzgerald, Mr. Hatch, Mr. Helms, Mr. Hutchinson of Arkansas, Mr. Johnson, Mr. Kyl, Mr. Schumer, and Mr. Torricelli, to introduce important legislation to provide for a 10-year depreciation life for leasehold improvements. Leasehold improvements are the alterations to leased space made by a building owner as part of the lease agreement with a tenant.

This is a common sense move that will help bring economic development to cities and towns around the country that want to revitalize their business districts. It will allow owners of commercial property to remodel their buildings to better meet the business needs of their communities — whether it’s new computer ports and data lines for high-tech entrepreneurs, or better lighting and sales space for retailers.

In actual commercial use, leasehold improvements typically last as long as the lease — an average of 5 to 10 years. However, the Internal Revenue Code requires leasehold improvements to be depreciated over 39 years — the life of the building itself.

Economically, this makes no sense. The owner receives taxable income over the life of the lease, yet can only recover the costs of these improvements associated with that lease over 39 years — a rate nearly four times slower. This preposterous mismatch of income and expenses causes the owner to incur an artificially high tax cost on these improvements.

The bill we are introducing today will correct this irrational and uneconomic tax treatment by shortening the cost recovery period for certain leasehold improvements from 39 years to a more realistic 10 years. If enacted, this legislation would more closely align the expenses incurred to construct improvements with the income they generate over the term of the lease.

By reducing the cost recovery period, the expense of making these improvements could fall more into line with the economics of a commercial lease transaction, and more building owners would be able to adapt their buildings to fit the needs of today’s business tenant.

We have an interest in keeping existing buildings commercially viable. When older buildings can serve tenants who need modern, efficient commercial space, there is less pressure for developing greenfields in outlying areas.

Americans are concerned about preserving open space, natural resources, and a sense of neighborhood. The current law 39-year cost recovery period for leasehold improvements is an impediment to reinvesting in existing properties and communities.

Shortening the recovery period will make renovation and revitalization of business properties more attractive. That will be good not just for property owners, but also for the economic development professionals who are working hard every day to attract new businesses to empty downtown storefronts or aging strip malls. And it will be good for the architects and contractors who carry out these renovations.

The broad appeal of this proposal is reflected in the roster of supporters we have attracted. The proposal has been endorsed by Building and Office Managers Association International; International Council of Shopping Centers; National Association of Independent and Office Properties; National Association of Real Estate Investment Trusts; National Association of Realtors; American Institute of Architects; Real Estate Roundtable; Associated General Contractors; National Retail Federation; and International Franchise Association.

I urge all Senators to join us in supporting this legislation to provide rational depreciation treatment for leasehold improvements.

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. 1087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SEC. 1. SHORT TITLE.

This Act may be cited as the “Business Property Economic Revitalization Act of 2001”.

SEC. 2. RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.

(a) 10-Year Recovery Period.—Subparagraphs (c), (e), and (g) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 10-year space) are amended by striking “and” at
the end of clause (i), by striking the period at the end of clause (ii) and inserting ‘‘,” and’, and by adding at the end the following new clause:

‘‘(ii) any qualified leasehold improvement property.”

(b) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—Subsection (e) of section 168 of such Code is amended by adding at the end the following new paragraph:

‘‘(6) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.

(A) IN GENERAL.—The term ‘‘qualified leasehold improvement property’’ means any improvement to an interior portion of a building which is nonresidential real property.

(B) Exceptions.—such Code is amended by adding at the end of the preceding subsection—

‘‘(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

‘‘(I) by the lessee (or any sublessee) of such portion, or

‘‘(II) by the lessor of such portion,

‘‘(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

‘‘(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

(C) Improvements Not Included.—Such term shall not include any improvement for which the expenditure is attributable to—

‘‘(i) the enlargement of the building,

‘‘(ii) any elevator or escalator,

‘‘(iii) any structural component benefiting a common area, and

‘‘(iv) the internal structural framework of the building.

(D) Definitions and Special Rules.—For purposes of this paragraph—

‘‘(1) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

‘‘(2) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of this clause, the term ‘related persons’ means—

‘‘(I) members of an affiliated group (as defined in section 1564), and

‘‘(II) persons having a relationship described in subsection (b) of section 267, except that, for purposes of this clause, the phrase ‘80 percent or more’ shall be substituted for the phrase ‘more than 50 percent’ each place it appears in such section.

‘‘(3) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

‘‘(4) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Such term shall not cease to be qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business, if the taxpayer, in the case of such property in an exchange described in section 1031, 1033, 1034, or 1036 to the extent that the basis of such property includes an amount representing the adjusted basis of such property owned by the taxpayer or a related person, or

‘‘(V) the acquisition of such property by the taxpayer in a transaction described in section 332, 331, 361, 721, or 731 (or the acquisition of such property by the taxpayer from the transferee or acquiring corporation in a transaction described in such section), to the extent that the basis of the property in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor or distribute.

‘‘(III) RELATED PERSON.—For purposes of this subparagraph, a person (hereafter in this Act referred to as the ‘related person’) is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person is involved in business with such person in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 1562).

(b) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Paragraph (3) of section 168(b) of such Code is amended by adding at the end the following new subparagraph:

‘‘(h) Straight Line Method.—Such term shall be defined to include—

‘‘(i) the straight line method of depreciation,

‘‘(ii) any other method of depreciation other than a method which permits depreciation after the end of the lease term of more than 50 percent of the adjusted basis of such property.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

By Mr. ROCKEFELLER (for himself and Mr. SPECTER):

S. 1088. A bill to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. ROCKEFELLER. Mr. President, I am tremendously pleased to introduce today legislation that would allow veterans to their Montgomery GI bill educational benefits to pay for short-term, high technology courses that lead to lucrative careers. I am pleased to be joined by my colleague on the Veterans’ Affairs Committee, Ranking Minority Member Senator ARLEN SPECTER.

The GI bill allowed a generation of soldiers returning from World War II to create the booming post-war economy, and, in fact, the prosperity that we enjoy today. Today’s Montgomery GI bill, MGB, modeled after the original GI bill, provides a valuable recruit to veterans and our Nation. As a transition benefit, it allows veterans to gain the skills they need to adjust productively to civilian life.

In closing, I note that many servicemembers leave the military with skills that place them in demand for careers in the technology sector. But even our veterans may require coursework to convert their military skills to civilian careers. The MGB must continue to evolve to keep pace with the changing needs of our veterans, and to maintain this investment in our veterans and our Nation.
The Secretary may accept the individual's certification of enrollment a term, quarter, or semester basis if the Secretary determines the proof the Secretary receives is sufficient proof of the individual's enrollment in and satisfactory pursuit of the program of education.

(c) Effective Date—The amendments made by this section shall take effect eight months after the date of the enactment of this Act and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 2. INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) In General.—Sections 3452(c) and 3501(a)(6) of title 38, United States Code, are amended by inserting at the end the following new sentence: ‘‘Such term also includes any private entity (that meets such requirements) that is established by agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a high technology occupation as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).’’

(b) Effective Date.—The amendments made by subsection (a) shall apply to enrollments in courses occurring on or after the date of the enactment of this Act.

By Mr. ROCKEFELLER:

S. 1089. A bill to amend section 7253 of title 38, United States Code, to expand temporarily the United States Court of Appeals for Veterans Claims in order to further facilitate staggered terms for judges on that court, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. ROCKEFELLER. Mr. President, I am today introducing this legislation which attempts to ensure there will be a sufficient number of judges on the U.S. Court of Appeals for Veterans Claims so as to decide the appeals of our Nation’s veterans for disability claims. In addition, this bill would terminate the Notice of Disagreement requirement in the current law which acts as a bar to appealing cases to the Court.

The U.S. Court of Appeals for Veterans Claims, CAVC, originally named the Court of Veterans’ Appeals, was created in 1988 in the Veterans Judicial Review Act, VJRA, to provide judicial review to veterans’ claims for benefits from the Department of Veterans Affairs. It is comprised of one chief judge and six associate judges.

At the court’s inception, the terms for judges on the court were not staggered. The original chief judge and six associate judges were appointed to 15-year terms within 16 months of one another from 1989 to 1991. A new judge was appointed in 1997 to fill a vacancy created by the death of one of the
originally appointed judges. The chief judge retired in 2000 and his seat has not yet been filled. By 2005, the terms of five of the remaining judges will end.

Because the judges’ terms were not staggered likely there will be simultaneous vacant seats.

In 1998, Congress attempted to preemptively avoid the crisis of having only two sitting judges, and the resulting backlog of cases, by offering some of the original judges an opportunity to retire early. However, no judges accepted the offer. Therefore, we must again make the effort to solve this problem. The legislation I am introducing proposes to do so by allowing two additional judges to be appointed to full terms, in order to bridge the retirement of the original judges.

Specifically, this bill would temporarily expand the membership of the court by two judgeships until August 2005, when the terms of the seven original judges’ terms will expire. This expansion should give ample time for the President to nominate and the Senate to confirm judges for the court, and avoid the potentially damaging effects of a court with only two judges. In addition, this bill would terminate the Notice of Disagreement, NOD, as a jurisdictional requirement for review at the court. The NOD begins the appellate process within the VA. The veteran usually sends the NOD to a regional office of the VA, telling the regional office that he disagrees with the regional office’s decision, in whole or in part. This constitutes notice that the veteran is appealing his case to the Board of Veterans’ Appeals. When Congress created the court in 1988, it required claims to have an NOD filed after November 18, 1988, the date of enactment of the VJRA, in order to be appealed to the CAVC. This explicit rule was enacted to keep the new court from becoming overwhelmed with appeals.

However, many difficulties have arisen with this jurisdictional requirement, due to the complexity of the VA appellate process. Problems mainly arise in determining what is the applicable NOD when there are multiple agency decisions and extensive correspondence by the claimants. Also, many cases originated before November 18, 1988, adding to the difficulty of determining whether the NOD constituted an appeal to the court. In addition, much litigation has occurred to determine what type of writing constitutes an NOD, and the type of language that must be used to construe disagreement over the VA’s decision.

While there has been favorable response to the court, the anticipated floodgates have not opened. Last year the court decided 1,556 claims. This legislation does not confer jurisdiction upon the court on any matter not currently within its jurisdiction. Instead, it is meant to free up the court to determine appeals on the merits. The appellate process for veterans’ claims is long enough without a veteran being additionally burdened to argue over NODs.

In closing, I urge my colleagues to join me in supporting this bill. Veterans appeals already take years, sometimes decades. We must do what we can to avoid increasing the length of the process.

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. 1089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXPANSION OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS TO FACILITATE STAGGERED TERMS OF JUDGES.

(a) In General.—(1) Section 7253 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(b) TEMPORARY EXPANSION OF COURT.—(1) Notwithstanding section (a) and subject to the provisions of this subsection, the authorized number of judges of the Court from the date of the enactment of this subsection until August 15, 2005, is nine judges.

(2) Of the two additional judges authorized by this subsection—

(A) not more than one judge may be appointed pursuant to a nomination made in 2001 or 2002;

(B) not more than one judge may be appointed pursuant to a nomination made in 2003; and

(C) if a judge is not appointed pursuant to a nomination made in 2001 or 2002, a nomination made in 2003, or both, the number of judges not appointed pursuant to such nomination or, both, may be appointed pursuant to a nomination made in 2004, but only if such nomination is made before September 30, 2004.

(3) The term of office and eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), shall be governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Act of 1998 (title X of Public Law 106-117; 113 Stat. 1500; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 2004.

(4) A judge of the Court as of the date of the enactment of this subsection who was appointed before 1991 may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section.

(b) STYLISTIC AMENDMENTS.—That section 7253(b)(2) of title 38, United States Code, as amended by paragraph (1), if the appointment would provide for a number of judges (other than judges serving in recall status under section 7257 of title 38, United States Code) who could serve a complete term on the Court as of August 15, 2005, in excess of seven judges.

(b) STYLISTIC AMENDMENTS.—That section is further amended—

(1) in subsection (b), by inserting "APPOINTMENT;" before "The judges;"

(2) in subsection (c), by inserting "TERM OF OFFICE;" before "The terms;"

(3) in subsection (f), by striking "(1);" and inserting "(1) and (3);" and

(4) in subsection (g), by inserting "RULES;" before "The Court;"

SEC. 2. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF APPOINTMENT AS CONDITION TO RETAIN UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7256(b)(2) of title 38, United States Code, is amended by striking the second sentence.

SEC. 3. TERMINATION OF NOTICE OF DISAGREE- MENT AS JURISDICTIONAL REQUIREMENT FOR UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) TERMINATION.—Section 402 of the Veterans’ Judicial Review Act (division A of Pub. L. 100-687; 102 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

(b) ATTORNEY FEES.—Section 403 of the Veterans’ Judicial Review Act (102 Stat. 4122; 38 U.S.C. 7254 note) is repealed.

(c) CONSTRUCTION.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) APPLICABILITY.—The repeal made by subsections (a) and (b) shall apply to—

(1) any appeal filed with the United States Court of Appeals for Veterans Claims on or after the date of the enactment of this Act; and

(2) any appeal pending before the Court on the date of enactment of this Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

By Mr. ROCKEFELLER (for himself, SENATOR TOM DASCHLE, and Mr. SPECTER):

S. 1091. A bill to amend section 1116 of title 38, United States Code, to modify and extend authorities on the presumption of service-connection for hereditary-related disabilities of Vietnam era veterans, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce today legislation that would continue to respond to at least some of the concerns of Vietnam veterans exposed to Agent Orange during their service to this Nation. I am pleased to be joined by my colleague on the Veterans’ Affairs Committee, Ranking Minority Member Senator ARLEN SPECTER, and my good friend, Senator TOM DASCHLE, the Senate majority leader and a true champion of Vietnam veterans.

In passing the Agent Orange Act of 1991, Congress demonstrated its commitment to securing relief for veterans enduring long-term health consequences following their service during the Vietnam war. The bill before us would continue the systematic scientific reviews that help us understand these consequences. Provisions in this bill would extend the presumptive period for Vietnam veterans suffering from respiratory cancers and ease the burden on veterans in proving exposure to Agent Orange.

The Agent Orange Act of 1991 directed the National Academy of Sciences, NAS, to review scientific evidence on the health effects of exposure to dioxin and other chemicals found in
The difficult task of proving exposure to Agent Orange while serving in Vietnam, and that the disease resulted from that exposure. This legislation would restore the presumption of exposure for all veterans who served in Vietnam from 1968 to 1975.

This bill ensures that the system of scientific review and determinations for presumptive compensation already in place for Vietnam veterans will continue. We cannot afford to stop or to permit the issues to be delayed. I urge my colleagues in the Senate to join me in supporting this legislation.

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. 1091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION AND EXTENSION OF AUTHORITY ON THE PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE DISABILITIES OF VIETNAM ERA VETERANS.

(a) REPEAL OF 30-YEAR LIMITATION ON MANIFESTATION OF HERBICIDE-INDUCED DISABILITIES.—Subsection (a)(2)(F) of section 1116 of title 38, United States Code, is amended by striking “within 30 years” and all that follows through “May 7, 1971”, the war.

(b) TREATMENT OF CLAIMS DENIED UNDER LIMITATION ON MANIFESTATION.—(1) The Secretary of Veterans Affairs shall treat each claim for compensation under subsection (a) of section 1116 of title 38, United States Code, for a disease covered by subsection (a)(2)(F) of that section that was denied by reason of the 30-year limitation on manifestation specified in that subsection (as that subsection was in effect on the date before the date of enactment of this Act) as having been submitted under that section as amended by subsection (a).

(2) In the case of an award of compensation with respect to a claim described in paragraph (1)—

(A) the effective date of the award shall be the date on which the claim was originally submitted; and

(B) the amount of compensation payable for the claim for any month before the date of the enactment of this Act shall be the amount of disability compensation provided for under chapter 11 of title 38, United States Code, for that month.

(c) PRESUMPTION OF EXPOSURE TO HERBICIDE AGENTS IN VIETNAM DURING VIETNAM ERA.—(1) Section 1116 of title 38, United States Code, is further amended—

(A) by striking paragraph (3) of subsection (a) to the end of the section and redesignating subsection (b) as subsection (s); and

(B) in subsection (b), as so transferred and redesignated—

(i) by striking “For purposes of this subsection, a veteran” and inserting “For purposes of establishing a service connection for a disability resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran”;

(ii) by striking “and has a disease referred to in paragraph (1)(D)” and inserting “and has a disease referred to in paragraph (1)(C)”.

(2)(A) The section heading of this section is amended to read as follows:

“1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure”.

(B) The table of sections at the beginning of chapter 11 of title 38, United States Code, is amended by striking the item relating to section 1116 and inserting the following new item:

“1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure.”

(d) EXTENSION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISABILITIES.—(1) Subsection (e) of section 1116 of title 38, United States Code, is amended by striking “10 years” and inserting “20 years”.

(2) Section 3(1) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking “10 years” and inserting “20 years”.

(e) TECHNICAL AMENDMENT.—Subsection (a)(2)(F) of section 1116 of title 38, United States Code, as amended by subsection (a) of this section, is further amended by inserting “of disability” after “manifest to a degree”.

By Mrs. HUTCHISON (for herself, Mrs. MIKULSKI, Mrs. MURRAY, Mr. INOUYE):

S. 1094. A bill to amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I am pleased to be joined by Senator MIKULSKI and Senator MURRAY to offer legislation on a critical health research issue. When I first started looking at the Federal role in the fight to end these deadly blood cancers, leukemia, lymphoma, and multiple myeloma, I was frankly astonished to learn that, despite the fact that these cancers account for 11 percent of all cancer deaths in the U.S., they receive less than 5 percent of the research funding from the National Cancer Institute.

That is why I would like to offer legislation today that would authorize an additional $250 million in research at the National Institutes of Health next year, and at least that amount in subsequent years. The bill also contains the specific authorizations of $25 million next year to expand public education, outreach, and early detection programs for three of these deadly blood cancers.

It is my hope and my expectation that this legislation will serve to focus additional resources on these diseases, as well as to help expand the public’s awareness of how deadly and pervasive they can be.

I commend the Senators from Maryland and Washington for their support on this issue and urge other Senators to join us in this effort.

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. 1094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
INCREASED FEDERAL SUPPORT FOR RESEARCH INTO LEUKEMIA, LYMPHOMA, AND MULTIPLE MYELOMA.

There is authorized to be appropriated to the National Institutes of Health shall carry out this subsection through the Director of the National Cancer Institute and in collaboration with any other agencies that the Director of the National Institutes of Health determines to be appropriate.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 115—RESOLUTION ENCOURAGING A LASTING CEASE-FIRE IN MACEDONIA.

Mr. McCONNELLE (for himself, Mr. LEAHY, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 115

WHEREAS, political, economic, and social situation in Macedonia has steadily deteriorated since February 2001; and

WHEREAS, ongoing fighting between the National Liberation Army and the Government of Macedonia presents a clear and present danger to the viability of Macedonia; and

WHEREAS, a Macedonian civil war exacerbates tensions in the region and could trigger additional incidents of violence in the Balkans; and

WHEREAS, the ongoing fighting has displaced at least 18,000 people inside Macedonia, and forced another 40,000 people to flee into neighboring countries; and

WHEREAS, political parties in Macedonia are negotiating a political solution to the current crisis;

NOW, THEREFORE, the Senate—

RESOLVES that the Senate,

(1) honors the memory of those who died in the battle, the brave fighting for a way of life that they believed in, the cavalry troops fighting for a young nation in which they believed;

(2) recognizes June 25th, 2001 as the 125th Anniversary of the Battle of Little Bighorn;

(3) calls upon the people of the United States to observe this day with appropriate ceremonies and respects;

The bill, which latter became Public Law 102–201, achieved two key goals: First, it changed the name of the Custer Battlefield National Monument to Little Bighorn Battlefield National Monument. Additionally, it directed that a monument be designed and built which commemorated the American Indian individuals who died in the Battle of Little Bighorn.

When I began the process for changing the name of the Little Bighorn Battlefield National Monument, my purpose was not to provide a political history but to provide a small measure of justice to the American Indians who died there, protecting their families, their property, and their way of life. Ultimately, the name change signified a shift in attitude about the way our Nation views the Battle of Little Bighorn.

Now, instead of the scene of a bloody battle in which U.S. troops were entirely decimated while “fighting brutal savages who stood in the way of westward progress” as some early reports described it, the name now represents what really happened 125 years ago, the inevitable and tragic clash of two cultures and the end of an era.

The Battle of the Little Bighorn, while known as the greatest victory of a group of American Indians over the U.S. Army during the period known as the Indian Wars, also marks the beginning of the demise of the western American Indian peoples in the United States, their loss of freedom, and the end of their traditional way of life.

Today I introduce a resolution that would commemorate the 125th anniversary of the battle and honor the memory of all who died in that epic battle, Indian and non-Indian alike, for they all believed in what they fought for and they all made the ultimate sacrifice for their respective cause.

INCREASED FEDERAL SUPPORT FOR RESEARCH INTO LEUKEMIA, LYMPHOMA, AND MULTIPLE MYELOMA.

In 1990, I introduced legislation that the Senate,
Mr. LEAHY. Mr. President, I am pleased to cosponsor this resolution on Macedonia, with my friend from Kentucky, Senator MCCONNELL.

Macedonia stands out as the country in the Balkans which, until recently, avoided the bloody and destructive wars that engulfed the rest of the former Yugoslavia throughout much of the past decade. In Macedonia, ethnic Macedonians and Albanians have lived peacefully together.

But recently, a small number of Albanian fighters have resorted to violence. Some have demanded a separate Albanian state. Others are interested in nothing more than control over smuggling routes in and out of Macedonia. Still others are from Kosovo, and are using Macedonia as a staging ground to focus international attention on their grievances in Kosovo.

But there are others who have taken up arms who represent the aspirations of the larger community of ethnic Albanians in Macedonia, who have been the victims of discrimination in their own country, or what is now Macedonia, for generations.

Albanians comprise approximately one third of the population of Macedonia. Unfortunately they are under-represented in government positions. There are no public institutions of higher learning where Albanian language is taught or spoken. Albanians are not recognized in Macedonia’s Constitution. The ethnic Albanian grievances are legitimate, and must be addressed. The ethnic Macedonians also have rights, which must be respected.

Recently, the leaders of a coalition government, representing ethnic Macedonian and Albanian political parties, have met to try to find a political settlement of the conflict. Both sides have acknowledged that there is no military solution, and that a civil war would be devastating for the country. But after a week of negotiations, they have made little progress, and the talks have reportedly reached an impasse. That is unacceptable. There is no other way to avoid a wider war than through dialogue. The United States has offered support, but not as vigorously as I believe it should. The leaders of the European Union have also invested considerable time and energy in search of peace.

NATO is prepared to assist in implementing a peace agreement, as it should, but the parties in Macedonia need to recognize that the United States will not intervene militarily, nor will we finance a war on behalf of either side. To think otherwise would be both unrealistic and pointless. The United States and its allies must support a political settlement that upholds the rights of all citizens of Macedonia, regardless of ethnicity, and which preserves the political and geographical integrity of the country.

This resolution calls attention to the importance of the situation in Macedonia, for the Balkans region, for Europe, and for the United States. This is a solvable problem, and it would be unforgivable if, what is still a relatively low intensity, localized conflict, erupted into full-scale civil war. The administration needs to give this precarious situation far more attention than it has thus far. We have an ambassador there who is doing his best, but it is not enough. Higher level diplomacy is needed, and it is needed urgently.

SENATE CONCURRENT RESOLUTION 54—AUTHORIZING THE ROTUNDA OF THE CAPITOL TO BE USED ON JULY 26, 2001, FOR A CEREMONY TO PRESENT CONGRESSIONAL GOLD MEDALS TO THE ORIGINAL 29 NAVAJO CODE TALKERS

Mr. RINGAMAN (for himself, Mr. DASCHEL, and Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the Capitol is hereby authorized to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers. Physical preparations for the ceremony may be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED AND PROPOSED

SA 810. Mr. GRAMM (for himself, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

TEXT OF AMENDMENTS

SA 810. Mr. GRAMM (for himself, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 146, lines 11 and 12, strike “issuer,” and insert “or issuer”—

Beginning on page 144, strike line 16 and all that follows through line 23 on page 148, and insert the following:

“(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

“(a) IN GENERAL.—In addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of an employer or other plan sponsor (or on the part of an employee of such an employer or sponsor acting within the scope of employment).”

“(b) DEFINITION.—In subparagraph (A), the term ‘employer’ means an employer maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

“(i) an employer described in section 3(16)(B)(i) with respect to a plan maintained by such employer; and

“(ii) one or more employers or employee organizations described in section

Beginning on page 160, strike line 21 and all that follows through line 14 on page 164, and insert the following:

“(B) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

“(A) IN GENERAL.—Paragraph (1) does not—

“(i) create any liability on the part of an employer against another plan sponsor (or on the part of an employee of such an employer or sponsor acting within the scope of employment), or

“(ii) apply with respect to a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee), for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

“(B) DEFINITION.—In subparagraph (A), the term ‘employer’ means an employer maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

“(i) an employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

“(ii) one or more employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.”

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, June 22, 2001, at 9:30 a.m., in open session to consider the following nominations: Alberto Jose Mora to be General Counsel of the Department of the Navy; Diane K. Morales to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness; Steven John Moeller, Sr. to be General Counsel of the Department of the Army; William A. Navas, Jr. to be Assistant Secretary of the Navy for Manpower and Reserve Affairs; and Michael W. Wynne to be Deputy Under Secretary of Defense for Acquisition and Technology.

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

PRIVILEGE OF THE FLOOR

Mr. FRIST. Madam President, I ask unanimous consent that an intern in my office, Caroline Smith, be granted floor privileges for the duration of today’s debate.

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

ELEMENTARY AND SECONDARY EDUCATION ACT AUTHORIZATION

On June 14, 2001, the Senate amended and passed H.R. 1, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1) entitled “An Act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind,” do pass with the following amendments:

Strike out all after the enacting clause and insert:

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:

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<th>Sec.</th>
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<td>References</td>
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<td>3.</td>
<td>Elementary and Secondary Education Act of 1965: short title; purpose; definitions; uniform provisions</td>
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Sec. 102. Study and recommendation with respect to equal access in schools.
Sec. 103. Sense of Senate on the percentage of Federal education funding that is spent in the classroom.
Sec. 104. Sense of the Senate regarding Bible teaching in public schools.
Sec. 105. Senior opportunities.
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Sec. 108. Sense of the Senate regarding science education.
Sec. 109. School facility modernization grants.
Sec. 110. Department of Education campaign to promote access of Armed Forces recruits to student directory information.
Sec. 111. Military recruiting on campus.
Sec. 112. Maintaining funding for the Individuals with Disabilities Education Act.
Sec. 113. School resource officer projects.
Sec. 115. Federal income tax incentive study.
Sec. 116. Boys and Girls Clubs of America.
Sec. 117. School resource officer projects.
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Sec. 119. Senior opportunities.
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Sec. 127. School resource officer projects.
Sec. 128. Boys and Girls Clubs of America.
Sec. 129. School resource officer projects.
Sec. 130. Carl D. Perkins Vocational and Technical Education Act.
Sec. 131. Federal income tax incentive study.
Sec. 132. Boys and Girls Clubs of America.
Sec. 133. School resource officer projects.
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Sec. 145. School resource officer projects.
Sec. 146. Carl D. Perkins Vocational and Technical Education Act.
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Sec. 149. School resource officer projects.
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Sec. 219. School facility modernization grants.
Sec. 220. Department of Education campaign to promote access of Armed Forces recruits to student directory information.
Sec. 221. Military recruiting on campus.
Sec. 222. Maintaining funding for the Individuals with Disabilities Education Act.
“(17) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given 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, to exercise any control over the management 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.

“(19) 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 for 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 respect to the inclusion of students from such school.

“(19A) LOCAL EDUCATIONAL AGENCY.—Where a public or private entity, other than a local educational agency, provides educational services to students attending a public or private school, the term ‘local educational agency’ as used with respect to such entity shall include such entity.

“(20) OTHER STAFF.—The term ‘other staff’ means pupil services personnel, librarians, career guidance and counseling personnel, educational 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 any other direct program grant under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(22) TEACHER MENTORING.—The term ‘teacher mentoring’ includes any program of pupil services personnel that develops new instructional strategies that, based on theory, fits within the ability of each student to succeed in school and become a responsible citizen.

“(23) PARENTAL INVOLVEMENT.—The term ‘parental involvement’ means the participation of parents in regular, two-way, and meaningful communication, including ensuring—

“(A) that parenting skills are promoted and supported;

“(B) that parents play an integral role in assisting student learning;

“(C) that parents are welcome in the schools;

“(D) that parents are included in decision-making and advisory committees; and

“(E) the carrying out of other activities described in section 1011.

“(24) PUBLIC TELECOMMUNICATIONS ENTITY.—The term ‘public telecommunication entity’ has the meaning given in section 305 of the Communications Act of 1934.

“(25) PUBLIC TELECOMMUNICATIONS SERVICE.—The term ‘public telecommunications service’ means any service, directly or indirectly, through any medium, for the purpose of communication, including—

“(A) voice service, telecommunications, telephone exchange service, data transmission services, data processing services, video and audio transmission services, interactive retail and other commercial services, and other services provided under such section to eligible private school children, their teachers, and other educational personnel serving such children.

“(26) SCIENTIFICALLY BASED RESEARCH.—The term ‘scientifically based research’ used with respect to—

“(A) public or private entities receiving assistance under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau;

“(B) public or private entities receiving assistance under this section to eligible private school children, their teachers, and other educational personnel serving such children.

“(27) SECONDARY SCHOOL.—The term ‘secondary school’ means a nonpublic school providing a public secondary education to students in grades 9 through 12 that is authorized by State 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 program.

“(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,

“(B) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

“(C) 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

“(D) 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, servers and storage devices, video and audio laser and CD–ROM discs, video and audio tapes, web-based and other digital learning resources, including online classes, interactive tutorials, and interactive tools and virtual learning environments, hand-held devices, wireless technology, voice recognition systems, and high-bandwidth digital 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 for the preceding fiscal year was not less than 90 percent of the amount that such combined fiscal effort would have been if the local educational agency had not participated in such a program, or that the State educational agency determines that such a waiver would be equitable due to—

“(i) exceptional or uncontrollable circumstances such as a natural disaster, or

“(ii) precipitous decline in the financial resources of the local educational agency.

“(b) REDUCTION IN CASE OF FAILURE TO MEET REQUIREMENT.—(1) IN GENERAL.—If a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of such a combined fiscal effort for aggregate expenditures (uniform fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a)), the Secretary may waive the requirement of this section if the Secretary determines that such a waiver would be equitable due to—

“(i) exceptional or uncontrollable circumstances such as a natural disaster, or

“(ii) precipitous decline in the financial resources of the local educational agency.

“(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

“(i) exceptional or uncontrollable circumstances such as a natural disaster, or

“(ii) precipitous decline in the financial resources of the local educational agency.

“(2) APPLICABILITY.—(1) IN GENERAL.—This section applies to programs under—

“(A) subsection 2 of part B of title I;

“(B) part C of title I (migrant education);

“(C) parts A, B, and C of title II;

“(D) title III; and

“(E) 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 develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning the implementation 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.

“(2) NOTICE 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 by the reasons supporting the appeal. The Secretary shall investigate and resolve such appeal not later than 120 days after receipt of the appeal.

“SEC. 9. BY-PASS DETERMINATION PROCESS.

“(g) 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 adversely affected by such action has an opportunity, for not less than 45 days after receipt thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

“(2) Filing final resolution of any investigation or complaint that could result in a determination under this section, the Secretary shall—

“(B) arrange for the provision of equitable services to 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, and other educational personnel.

“(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 contract shall be subject to 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 employed by, other 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 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 the implementation 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) DETERMINATION.—Any determination by the Secretary under this section shall be subject to review by the Supreme Court of the United States on certiorari or certification as provided in section 1254 of title 28, United States Code.

“(c) PAYMENT FROM STATE ALLOTMENT.—Whenever 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 from the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

“(d) PRIOR DETERMINATION.—Any by-pass determination under title I of the Elementary and Secondary Education 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 NON-RECIPIENT NONPUBLIC SCHOOLS.

“Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal agency or contract, except for the provision of public housing services, to provide any funds to a non-recent nonpublic school, whether or not such school is treated as a private school or home school under State law. This section shall not be construed to affect 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 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 that 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 heterosexual or homosexual;

“(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 school’s 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, local, and other educational funds or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“SEC. 16. ADDITIONAL LIMITATIONS ON NA- TIONAL TESTING.

“(a) NATIONAL TESTING.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other provision of Federal law, no funds available to the Department or otherwise available under this Act may be used for
any purpose relating to a nationwide test in reading, mathematics, or any other subject, including test development, pilot testing, field testing, test implementation, test administration, test delivery, or any other purpose.

(2) EXCEPTION.—Paragraph (1) shall not apply to the following:

(A) The National Assessment of Educational Progress, and such other sections 411 through 413 of the Improving America's Schools Act of 1994 (20 U.S.C. 9016-9018).

(B) The Third International Math and Science Study (TIMSS).

(c) DEVELOPMENT OF DATABASE OF PERSONAL-ALLY IDENTIFIABLE INFORMATION.—Nothing in this Act (other than section 1308(b)) shall be construed to provide opportunities for children served under this Act to acquire the knowledge and skills needed to meet the challenging State student performance standards developed for all children.

(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 supplemental school-wide 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 school-wide reform and ensuring access of children (from the earliest grades, including prekindergarten) to effective instructional strategies and academic content that includes intensive complex thinking and problem-solving experiences;

(4) significantly elevating the quality of instruction provided in participating schools with substantial opportunities for professional development;

(5) coordinating services under all parts of this title with other educational and related 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 systems designed to measure how well children served under this title are achieving challenging State student performance standards and comparable national standards.

(2) PROVIDING SUBSIDIES FOR MANDATORY TESTING.—Nothing in this title shall be construed to require any local educational agency that receives funds under this Act from mandating, directing, or controlling the curriculum of a private or home school, regarding whether or not a home school is treated as a school or home school under State law.

(3) AUTHORIZATION.—For the purpose of carrying out part A, other than section 112(e), there are authorized to be appropriated—

(4) LOCAL EDUCATIONAL AGENCY GRANTS.—

(5) AUTHORIZATION.—For the purpose of carrying out part A, other than section 112(e), there are authorized to be appropriated—

(6) RESERVATION FOR SCHOOL IMPROVEMENT.—

(7) USES.—Of the amount reserved under subsection (a) for each fiscal year, the State educational agency authorized 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.

(8) USES.—Of the amount reserved under subsection (a) for each fiscal year, the State educational agency authorized 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.

(9) USES.—Of the amount reserved under subsection (a) for each fiscal year, the State educational agency authorized 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.

(10) USES.—Of the amount reserved under subsection (a) for each fiscal year, the State educational agency authorized 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.
school improvement, corrective action, or reconstitution under section 1116(c).

"(c) STATE PLAN.—Each State educational agency, in consultation with the Governor, shall prepare and submit to the Secretary, by March 1, 2002, a plan prepared by the Chief State School Official, in consultation with the Governor, that meets the requirements of this section and is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Head Start Act, and the Early childhood Education Act.

"(2) ACCOUNTABILITY.—(A) Each State plan shall include a description of the State's accountability system and is implementing a single, statewide State accountability system that has been or will be effective in ensuring that all local educational agencies and secondary schools make adequate yearly progress as defined under subparagraphs (B) and (D). Each State accountability system shall—

(i) be based on 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 section shall be 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 ensure that schools and local educational agencies 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 and their improvement in reading or language arts, for all public elementary school and secondary school children taught, but for which a new content standard was 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 in subjects determined by the State, but including at least mathematics, reading or language arts, history, and science, except that—

(i) any State which does not have standards in mathematics or reading or language arts, for public elementary school and secondary school children served under this part on the date of enactment of the Better Education for Students and Teachers Act shall apply the standards described in subparagraph (A) to such children not later than the beginning of the school year 2002-2003;

(ii) 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 challenging but attainable student performance standards 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;

"(E) Each State shall provide for students and teachers, and school administrators throughout the State, such training and the State shall establish a uniform procedure for averaging data over a period of years.

"(F) The Secretary shall ensure that each State adopts and aligns its content standards with national standards adopted under title I (other than 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.

"(G) The Secretary shall ensure that the information or the results would reveal individually identifiable information about an individual student;

"(H) each educational agency and schools make adequate yearly progress as determined by the Secretary under this part will be taught, but for which a new content standard was required by subparagraph (A) shall be the same standards that the State applies to all schools and children in the State.

"(I) make adequate progress as determined by the system or formula described in subparagraph (C); or

"(II) for each group of students described in subparagraph (D)(v)(II) (other than those identified by gender and migrant status), achieved an increase of not less than 1 percent, in the percentage of students served by the school educational agencies and schools, 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; or

"(III) for the purpose of making determinations under clause (i) or (II), the State shall 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.

"(J) Each State shall ensure that in developing the plan, the Secretary publicly 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.

"(K) Each State shall, as a part of a consolidation plan under section 5506, one of the criteria by which it shall be applicable to all students enrolled in the State's public schools, the State educational agency may meet the requirement 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 funds under this part will adopt content and student performance standards, and assessments aligned with such standards, which meet all of the criteria of this subsection.

"(L) Each State 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)(H)(ii) and (3)(I), and with accommodations, guidelines and alternate assessments provided in the same manner as those under paragraphs (3)(H)(ii) and (3)(I), or under paragraph (3)(H)(ii) to assess all students.

"(H) Each State plan shall provide an assurance that the State’s accountability requirements established under section 5120(a)(17)(A), as defined in section 5120, such as requirements established under the State’s charter school law and overseen by the State’s authorized chartering agencies for such schools, are rigorous and consistent with the accountability requirements established under this Act, such as the requirements regarding standards, assessments, adequate yearly progress, school identification, receipt of technical assistance, and corrective action, that are applicable to other schools in the State under this Act.

"(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, and writing, for 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 valid and reliable, and be consistent with, relevantly, nationally recognized professional and technical standards for such assessments developed and used by national experts on educational testing;

"(D) be only used if the State provides to the Secretary evidence from the test publisher or other relevant sources that the assessment used is of adequate technical quality for each purpose required under this Act, and such evidence is made public by the Secretary upon request;

"(E) have up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

"(F) be administered only if the State provides to the Secretary evidence from the State, test publisher or other relevant sources that the assessment used is of adequate technical quality for each purpose required under this Act, and such evidence is made public by the Secretary upon request;

"(G) begin no later than the first day of school year 2001–2002, measure the proficiency of students served under this part in mathematics and reading or language arts and be administered not less than one time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(H) beginning no later than school year 2002–2003, measure the proficiency of all students in mathematics and reading or language arts and be administered not less than one time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(I) beginning no later than school year 2003–2004, measure the proficiency of all students in mathematics and reading or language arts and be administered not less than one time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(J) beginning no later than school year 2004–2005, measure the performance of students against the challenging State content and student performance standards for all students annually in grades 3 through 8, at least once in grades 10 through 12, in at least mathematics and reading or language arts, if the tests are aligned with State standards, except that—

"(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 6204(c) 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 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;

"(K) at the discretion of the State, measure the proficiency of students in academic subjects not described in subparagraphs (E), (F), and (G) in which the State has adopted challenging content and student performance standards;

"(L) 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 the 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 English for at least 1 school year, except the Commonwealth of Puerto Rico) for 3 or more consecutive years, except that if a local educational agency, on a case-by-case basis, may not determine the assessment used by the State educational agency that assessments in another language and form is likely to yield more accurate and reliable information on what such a student knows and can do in content areas;

"(M) enable results to be disaggregated within the required categories of students as indicated by the students’ performance on assessment items.

"(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, but such measures shall not be the primary or sole indicator of student progress toward meeting State standards.

"(B) Consistent with section 1112(b)(1)(D) States may measure the proficiency of students in academic subjects that have adopted challenging content and student performance standards 1 or more times during grades kindergarten through 2.

"(3) LANGUAGE ASSESSMENTS.—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 section 5120(a)(12), 1114(b), and 1115(c) that is applicable to such agency or school;

"(B) the specific steps the State educational agency will take to ensure that both schoolwide and targeted programs and targeted assistance programs and/or State educational agency in any academic year shall be used only in determining the progress of the local educational agency;

"(C) produce individual student interpretable and comparable reports to parents of all students, which shall include performance on assessments aligned with State standards, and other information on the attainment of student performance standards; and

"(D) 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 assessment status, by advanced or non-disabled 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; and

"(E) enable itemized score analyses to be reported to schools, local educational agencies, and parents in a way that parents, teachers, schools, and local educational agencies can interpret and address the specific academic needs of individual students as indicated by the students’ performance on assessment items.

"(5) 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 section 5120(a)(12), 1114(b), and 1115(c) that is applicable to such agency or school;

"(B) the specific steps the State educational agency will take to ensure that both schoolwide and targeted programs and targeted assistance programs and/or State educational agency in any academic year shall be used only in determining the progress of the local educational agency;
and how the State educational agency will disseminate such models to each local educational agency and school within the State; and

(D) such other factors the State deems appropriate in order to enable the State 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, to measure student achievement.

(8) FACTORS IMPACTING STUDENT ACHIEVEMENT.—Each State plan shall include a description of how the State will use such assessments to identify any school within the State that is identified for school improvement or corrective action under section 1116 to identify the academic and other interventions that are significantly impacting student achievement at the school.

(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

(1) the State will meet the requirements of subsection (j)(1) and, beginning with the 2002–2003 school year, will produce the annual State report card required under 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, except with respect to a State in which less than 0.25 percent of the total number of poor, school-aged children in the United States is located shall be required to comply with the requirements of this paragraph on a biennial basis;

(3) the State educational agency will work with other agencies, including educational service agencies, 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 technical assistance related to the requirements of this part, including technical assistance through other cooperative agreements such as 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 this part, including such corrective actions as are necessary;

(6) the State educational agency will provide the legal and technical support, including student accountability and supervision, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under this part, including such corrective actions as are necessary;

(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 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 State's educational agencies and individual school districts in preparing 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 an annual process to assist in the review of State plans;

(B) appoint individuals to the peer review process who are representative of parents, teachers, local 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 of this section;

(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.—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; and

(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 student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

(3) LIMITATION ON CONDITIONS.—Nothing in this part shall be construed to authorize an offi- cial of the Secretary to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

(4) PENALTY.—If a State fails to meet the state plan's deadlines for it to have in place challenging content standards and student performance standards, a set of high quality annual student assessments aligned to the standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold funds for State administration and activities under section 1117 and take such other steps as are needed to assist the State in coming into compliance with this section until the Secretary determines that the State plan meets the requirements of this section.

(g) REPORTS.—

(1) ANNUAL STATE REPORT CARD.—

(a) IN GENERAL.—No 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.

(2) 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 available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies.

(h) 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)(G) (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;

(vi) 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;

(vii) the percentage of teachers teaching with emergency or provisional credentials as described by his or her State, and in high 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

(viii) the percentage of classes not taught by highly qualified teachers in such high poverty schools;
“(viii) 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 the progress of each of the State’s public elementary schools and secondary schools. Such information may include information regarding—

(i) school achievement and performance 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) registered 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) In general.—The Secretary shall ensure that the provisions of this section, States, local educational agencies, and schools comply with the provisions of section 445 of the General Education Provisions Act.

(3) Annual local educational agency report cards.—

(A) In general.—Not later than the beginning of the 2002–2003 school year, the Secretary shall provide 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 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 the local educational agency and the State as a whole.

(B) Minimum requirements.—The State, local educational agencies, and schools shall comply with the requirements of this section.

(C) Other information.—A local educational agency may include in its annual report 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 under this section, make widely available the information described in this paragraph to schools in the 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 other means 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 card.

(2) 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 under this subsection.

(3) Annual state report to the Secretary.—Each State receiving assistance under this Act shall prepare and disseminate an annual report to the Secretary, degree held by the teacher, and the State educational agency that receives funds under this part shall provide the information described in subparagraph (B)(i)(II); and

(B) beginning not later than school year 2004–2005, information on the achievement of students and school improvement or corrective action that is used with respect to any 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) (ii) annual report to the Secretary, information on the results of student assessments (including disaggregated results) required under this section.

(E) Public dissemination.—The Secretary shall provide the information described in paragraph (B) to the Secretary, information on the results of student assessments (including disaggregated results) required under this section.

(4) Privacy.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individual students.

(5) 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, the setting of State performance standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

(6) Volunteer partnerships.—A State may enter into a voluntary partnership with another State to develop and implement the assessments and standards required under this section.

S. 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 1226a” and inserting “the Goals and other State education programs under section 1120C for low-performing schools’’;

(B) in paragraph (2), by striking “1994” and inserting “1994’’;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “and” and inserting “and”;

(ii) in subparagraph (C), by inserting “and” after the semicolon; and

(iii) by adding at the end the following:

“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) which strategy shall be coordinated with activities under title II if the local educational agency receives funds under title II before the semicolon;

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking “programs and vocational” and inserting “programs and vocational’’;

(ii) by striking “and school-to-work transition programs”;

(B) in subparagraph (B)—

(i) by striking “served under part C” and all that follows through “1994’’ and inserting “served under part D’’;

(ii) by striking “served under part D”;

(4) (D) in paragraph (7) and inserting the following:

“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.’’;
(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 program schools;

(3) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement their 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 under section 1118, and timely and meaningful consultation with private school officials regarding such services;

(8) take into account the experience of model programs and those who have demonstrated success, as determined by the State department of education, of providing services to children, youth, and families, including health and social services;

(9) comply with the requirements of section 1119 regarding professional development;

(10) inform eligible schools of the local educational agency’s authority to obtain answers on the school’s behalf under part 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 make recommendations to each school served by the agency and receiving funds under this section 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;

(13) ensure that the results from the assessments required under section 1111 will be provided to teachers and other professional staff as soon as is practically possible after the test is taken, in a manner and form that is understandable and easily accessible to parents and teachers; and

(14) to each school served by the agency and assisted under this part models of high quality, effective curriculum that are aligned with the State’s content standards and developed or identified by the State.

(4) in subsection (e)—

(A) in paragraph (1), by striking ‘‘, except that’’ and all that follows through ‘‘finally approved by the State educational agency’’;

(B) in paragraph (3)—

(i) by striking ‘‘professional development’’;

(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

(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 section (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 are eligible for free or reduced-price meals, for the following:

(a) to improve the quality of instruction in one or more of the core academic subjects in schools; and

(b) to provide services to children attending private elementary and secondary schools in the area that are aligned with the State’s content standards and State student performance standards;’’;

(B) in paragraph (2)—

(i) by adding at the end the following:

‘‘(d) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;’’;

(ii) by adding at the end the following:

‘‘(e) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119 regarding professional development;’’;

(B) in paragraph (3)—

(1) by striking paragraph (1); and

(2) in subparagraph (C)(ii), by striking ‘‘section 1119’’ and inserting ‘‘under part D (or its predecessor authority)’’;

(2) in subsection (c)(1)—

(A) by amending subparagraph (B) to read as follows—

‘‘(B) 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;’’;

(B) in subparagraph (H), by striking ‘‘, such as family literacy services and’’ and inserting ‘‘in-school volunteer opportunities, or parent membership on school-based leadership or management teams;’’; and

(C) by adding at the end the following:

‘‘(I) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.’’.

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, and’’;

(ii) in subparagraph (C)(i), by striking ‘‘under part D (or its predecessor authority)’’;

(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;’’;

(B) in subparagraph (H), by striking ‘‘, such as family literacy services and’’ and inserting ‘‘in-school volunteer opportunities, or parent membership on school-based leadership or management teams;’’; and

(C) by adding at the end the following:

‘‘(I) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.’’.

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 1115 of such title—

SEC. 115B. 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 ‘‘public school’’ 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 or alcohol;
(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.

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.

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 national origin.

(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.).

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 described in the local educational agency’s plan in accordance with section 1117.

(b) Periodic Review.—Each local educational agency serving the school, the local board of education, and the school principal shall make a final determination on the status of the school improvement plan, including the technical assistance to be provided under this section, not later than 90 days after receiving a school plan, shall—
(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the school meets the requirements of this section.

(c) 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.

(1) Such technical assistance—
(i) shall include assistance in analyzing data from assessments received under section 1111(b)(3), and other samples of student work, to identify and address instructional problems including problems, if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan 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 effectiveness 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 (as defined and described under section 1706(a));

(2) Such technical assistance—
(i) 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

(ii) 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 (as defined and described under section 1706(a));

(3) 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-technical assistance group and a peer-technical assistance program in the school served by the local educational agency; and

(ii) promptly review the school’s plan, work with the school as necessary, and approve the school plan if the school meets the requirements of this section.

(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 (as defined and described under section 1706(a)).

Within 10 years after the date of enactment of the Better Education for Students and Teachers Act:

(1) the 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.

Within 45 days after receiving a school plan, the local educational agency serving the school shall—
(i) establish a peer-technical assistance group and a peer-technical assistance program in the school served by the local educational agency; and

(ii) promptly review the school’s plan, work with the school as necessary, and approve the school plan if the school meets the requirements of this section.

(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 (as defined and described under section 1706(a)).
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 subject to paragraph (7)(C), the local educational agency to which such a school is assigned under paragraph (7)(C)(ii), or for which such a school is assigned under paragraph (7)(C)(iii), shall be considered approved by the Secretary.

(ii) Not later than the beginning of the next school year following the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall announce the status under this subsection for the two school years preceding the date of enactment of the Better Education for Students and Teachers Act.

(B) CORRECTIVE ACTION.—(i) Any school that implements a corrective action under paragraph (7) shall be subject to paragraph (8) until the school leaves that school.

(ii) 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 subject to paragraph (7)(C).

(C) SPECIAL RULES.—A local educational agency shall provide a teacher who transferred to another school under this subsection to remain in that school, and shall continue to provide or arrange for transportation for the child to attend such school under this subsection until such date, shall be subject to paragraph (7)(C), the local educational agency to which such a school is assigned under paragraph (7)(C)(ii), or for which such a school is assigned under paragraph (7)(C)(iii), or for the two school years preceding the date of enactment of the Better Education for Students and Teachers Act.
“(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 session of Congress.

(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 1116.

(B) if the State educational agency determines that a local educational agency failed to carry out obligations under this subsection, take such corrective actions as the State educational agency determines appropriate and in compliance with State law:

(iii) conduct scientifically based research strategies that strengthen the core academic program in the local educational agency;

(iv) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-performing students, including why the local educational agency’s prior plan failed to bring about increased student achievement;

(C) if a school in the State is identified for school improvement or corrective action, notify the Secretary of academic and other factors that were determined by the State educational agency under section 1111(b)(4)(A) as significantly impacting student achievement; and

(D) if a school in the State is identified for school improvement or corrective action, encourage any State and local agencies and community groups to develop a consensus plan to address any factors that significantly impacted student achievement.

(14) 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 sections 1111(b)(2) and (D) 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 yearly progress under section 1111(b)(2) and (D), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117.

(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 sections 1111(b)(2) and (D) 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 by this program.

(4) 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 is incorrect or in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support its request to correct this determination.

(5) Not later than 30 days after a State educational agency makes an initial determination under subparagraph (A), the State educational agency shall provide the local educational agency a final determination regarding the improvement status of the local educational agency.

(6) 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 an improvement plan described in section 1112. The plan shall—

(i) include specific State-determined yearly progress requirements in subjects and grades to ensure that all students achieve continual and significant progress towards meeting the goal of all students reaching the proficient level 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 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 reserved for professional development under subsection (c)(3)(A)(iii), which funds shall supplement and not supplant professional development that is otherwise available to receive, and which professional development shall increase the content knowledge of teachers and build the capacity of the teachers to align classroom instruction with 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 agreed to by the State educational agency and including strategies tied to scientifically based research.

(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 substantive improvement on the academic 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, in the case of a school district, subject the local educational agency to corrective action with respect to a local educational agency.

(v) Appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency and, in the case of a school district, remove the school district from the jurisdiction of the local educational agency.

(7) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded schools under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or collective agreements between such employees and their employers.

(8) SUPPLEMENTAL SERVICES.—(A) IN GENERAL.—In the case of any school described in subsection (c)(7)(C) or
Section 1111 (20 U.S.C. 6118) 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 improve student performance in that school; and

(B) second, provide support and assistance to other local educational agencies and schools identified as in need of improvement under section 1116(b)(6) as significantly impacting student performance.

SEC. 118. ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

Section 1117 (20 U.S.C. 6318) is amended—

(1) in subsection (a), by striking the period "and" and inserting "and"; and

(2) by inserting "and" before "part".

SEC. 119. COMPREHENSIVE REGIONAL TECHNICAL ASSISTANCE.

(1) The Secretary shall make available to local educational agencies subject to this section—

(A) planning and technical assistance to develop and implement effective programs for improving student performance; and

(B) on request, technical assistance to develop and implement plans and procedures for providing assistance and resources that are needed by the school or the school support team.

SEC. 120. DEFINITIONS.

(1) As used in this section—

(A) the term "comprehensive regional technical assistance centers" means centers that provide assistance and resources that are needed by the school or the school support team.

(B) the term "school" means a school or the school support team.

(C) the term "school support team" means a team of educators and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency, and, where appropriate, the State educational agency; and

(D) the term "State educational agency" means the agency responsible for carrying out this section—

(i) the State educational agency that is responsible for the school;

(ii) the State educational agency that is responsible for the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performance in that school;

(iii) the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performance in that school.

(2) The Secretary shall make available to the school and the school support team—

(A) planning and technical assistance to develop and implement effective programs for improving student performance; and

(B) on request, technical assistance to develop and implement plans and procedures for providing assistance and resources that are needed by the school or the school support team.

SEC. 121. CONTINUATION OF ASSISTANCE.

(1) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(2) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(3) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(4) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(5) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(6) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(7) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(8) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(9) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(10) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(11) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(12) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(13) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(14) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.

(15) The assistance provided under this section shall be available for the school year following the school year for which permission of the parents of the child is granted.
(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 or local educational agency to enable the 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. 11A. GRANTS FOR ENHANCED ASSESSMENT INSTRUMENTS.

Part A of title I (20 U.S.C. 6311 et seq.) is amended by inserting after section 1117 (20 U.S.C. 6318) the following:

“SEC. 1117A. GRANTS FOR ENHANCED ASSESSMENT INSTRUMENTS.

(a) PURPOSE.—The purpose of this section is to—

(1) enable States (or consortia or States) and local educational agencies (or consortia of local educational agencies) to collaborate with institutions of higher education, other research institutions, and other organizations to improve the quality and fairness of State assessment systems beyond the basic requirements for assessment systems described in section 1111(b)(3);

(2) characterize student achievement in terms of multiple aspects of proficiency;

(3) chart student progress over time;

(4) closely track curriculum and instruction; and

(5) monitor and improve judgments based on information gathered through evaluations of student performance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

(c) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to States and local educational agencies to carry out the purposes described in subsection (a).

(d) APPLICATION.—In order to receive a grant under this section for any fiscal year, a State or local educational agency shall submit an application to the Secretary at such time and containing such information as the Secretary may require.

(e) AUTHORIZED USE OF FUNDS.—A State or local educational agency having an application approved under section (d) shall use the grant funds received under this section to collaborate with institutions of higher education or other research institutions, experts on curricular development, educators, parents, and assessment developers for the purpose of developing enhanced assessment tools that include techniques such as performance, curriculum-, and technology-based assessments.

(f) ANNUAL REPORTS.—Each State or local educational agency receiving a grant under this section shall report to the Secretary at the end of the fiscal year for which the State or local educational agency received the grant on the progress of the State in local educational agency in improving the quality and fairness of assessments with respect to the purpose described in subsection (a).

SEC. 11A. PARENTAL INVOLVEMENT.

(a) IN GENERAL.—Section 1118 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)(B), by inserting “involvement” in place of “student achievement”;

(2) in subsection (b)(1)—

(A) in the first sentence, by inserting “(in a language parents can understand)” after “distribution”; and

(B) in the second sentence, insert “shall be made available to the local community” and after “Such policy”;

(3) in subsection (c) (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 local educational agency, as appropriate, in understanding”; and

(4) by striking subparagraph (B).

SEC. 119. PARENTAL INVOLVEMENT.

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.

SEC. 120. PROFESSIONAL DEVELOPMENT.

Section 1119 (20 U.S.C. 6320) is amended—

(1) in subsection (b)(1)—

(A) by amending paragraph (A) to read as follows:

“(A) support professional development activities that give teachers, principals, administrators, paraprofessionals, pupil services personnel, parents, and others the knowledge and skills to prepare students with the opportunity to meet challenging State or local content standards and student performance standards;”;

(B) 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 the needs of the teacher and the needs of the students, and the needs of the local educational agency;”;

(D) in subparagraph (E) (as so redesignated), by striking “and” after the semicolon;

(E) by inserting “title III of the Goals 2000: Educate America Act;”;

(F) in subparagraph (F) (as so redesignated), by striking “and” after the semicolon;

(G) by striking at the end of 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”; and

“(i) in the classroom to improve teaching and learning in the curriculum; and

(ii) in academic content in which the teachers provide instruction;”;

(D) in subsection (D) by striking “title III of the Goals 2000: Educate America Act;” and inserting “other Acts”; and
school each year of the opportunity for eligible request in writing such consultation. The local school officials until the private school officials required to further consult with the private school participate in services provided under such paragraph. In making the determination under paragraph (1), the Secretary shall consider 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 120B (20 U.S.C. 6321) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS.—

"(1) CALCULATION.—A local educational agency shall consult with the State educational agency, the local school board, 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 consult with the State educational agency, the local school board, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(2) DETERMINATION.—In making the determination under paragraph (1), the Secretary shall consider factors including the quality, size, scope, or location of the program, or the opportunity of eligible children to participate in the program.; and

(3) by striking "if a" and inserting the following:

"(1) IN GENERAL.—If a; and

(b) ADDING by adding at the end the following:

"(4) CONSULTATION.—Each local educational agency shall provide to the State educational agency a copy of 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, and a copy of the local educational agency's records that school attendance area.

(c) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 8.

(2) in subsection (c) (as so redesignated), (A) in paragraph (2), by striking "14506 and" and inserting "8 and 9"; (B) by redesignating paragraphs (1) and (2) (as so amended) as subparagraphs (A) and (B), respectively; and

"(C) ADMINISTRATIVE COSTS.—The Secretary shall reserve a total of 1 percent to provide assistance to—

(1) the State educational agency in the outlying areas.

(2) educational agencies in the Freely Associated States. The Secretary shall award such grants taking into consideration the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

"(d) USES.—Except as provided in subparagraph (C), the grants awarded under this paragraph only may be used for—

(i) to provide direct educational services.

(ii) to provide direct educational services.

(iii) administrative costs.

(iv) as subsection (a)(1) in each fiscal year 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 outlying areas.

(3) in subsection (a)(2) for any fiscal year shall be, as

use scientifically based research approaches that build on competencies that lead to school success, particularly in language and literacy development and in reading;

(3) enable children to develop and demonstrate 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. 1120C. LIMITATIONS ON FUNDS.

Subpart 1 of part A of title I (20 U.S.C. 6331 et seq.) is amended by inserting after section 1120B (20 U.S.C. 6323) the following:

"SEC. 1120C. LIMITATION ON FUNDS.

"(a) RETENTION OF FUNDS.—A local educational agency may not use funds received under this subpart for—

(i) purchase or lease of privately owned facilities;

(ii) purchase or provision of facilities maintenance, gardening, landscaping, or janitorial services or the payment of utility costs; and

(iii) the construction of facilities;

(iv) the acquisition of real property;

(v) the payment of travel and attendance costs, conference and other travel and attendance necessary for professional development; or

(vi) the purchase or lease of vehicles.

(2) 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 1121(a)(2), 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 payments to local educational agencies in the outlying areas.

(2) COMPETITIVE GRANTS.—

"(A) IN GENERAL.—For fiscal year 2002 and each fiscal year thereafter, 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 outlying areas.

(b) USES.—Except as provided in subparagraph (C), the grants awarded under this paragraph only may be used for—

(i) to provide direct educational services.

(ii) to provide direct educational services.

(iii) administrative costs.

(iv) as subsection (a)(1) in each fiscal year 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 outlying areas.

(3) in subsection (a)(2) for any fiscal year shall be, as

use scientifically based research approaches that build on competencies that lead to school success, particularly in language and literacy development and in reading;

(3) enable children to develop and demonstrate 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. 1120C. LIMITATIONS ON FUNDS.

Subpart 1 of part A of title I (20 U.S.C. 6331 et seq.) is amended by inserting after section 1120B (20 U.S.C. 6323) the following:

"SEC. 1120C. LIMITATION ON FUNDS.

"(a) RETENTION OF FUNDS.—A local educational agency may not use funds received under this subpart for—

(i) purchase or lease of privately owned facilities;

(ii) purchase or provision of facilities maintenance, gardening, landscaping, or janitorial services or the payment of utility costs; and

(iii) the construction of facilities;

(iv) the acquisition of real property;

(v) the payment of travel and attendance costs, conference and other travel and attendance necessary for professional development; or

(vi) the purchase or lease of vehicles.

(2) 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 1121(a)(2), 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 payments to local educational agencies in the outlying areas.

(2) COMPETITIVE GRANTS.—

"(A) IN GENERAL.—For fiscal year 2002 and each fiscal year thereafter, 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 outlying areas.

(b) USES.—Except as provided in subparagraph (C), the grants awarded under this paragraph only may be used for—

(i) to provide direct educational services.

(ii) to provide direct educational services.

(iii) administrative costs.

(iv) as subsection (a)(1) in each fiscal year 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 outlying areas.

(3) in subsection (a)(2) for any fiscal year shall be, as

use scientifically based research approaches that build on competencies that lead to school success, particularly in language and literacy development and in reading;

(3) enable children to develop and demonstrate 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.
(A) Indian children on reservations served by any elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

(B) out-of-State Indian children in elementary and secondary schools in the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(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 in the States, the District of Columbia, and the Commonwealth of Puerto Rico to carry out section 1124, 1124A, or 1125 for the preceding fiscal year, subject to such conditions 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 payments 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, CON- CERNED PROGRAMS, GRANTS, AND TAR- GETED GRANTS.

(a) IN GENERAL.—For each of the fiscal years 2002 through 2008—

(1) an 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 1124 for fiscal year 2001, shall be allocated in accordance with section 1124;

(3) any amount appropriated to carry out this part for the fiscal year that is not used under subsections (a)(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 local educational agencies, subject to subsections (c) and (d).

(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under section 1124 or 1124A for the 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 for such fiscal year shall be less than or equal to—

(A) the amount that such agency received for the fiscal year 2001 under sections 1124 and 1124A, respectively; or

(B) the amount that such agency received for the fiscal year 2001 under sections 1124 and 1124A, respectively, less than the greater of—

(i) 100 percent of the amount the local educational agency received for fiscal year 2001 under sections 1124 and 1124A; or

(ii) 100 percent of the amount calculated for the local educational agency for the fiscal year under sections 1124 and 1124A, respectively, determined without applying the hold harmless provisions of this subparagraph.

(B) APPLICABILITY.—Notwithstanding any other provision of this Act, the amount made available for each fiscal year under paragraph (1) may be used—

(1) to provide in any program administered by the Secretary other than a program authorized under this part.
"(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 that under subparagraph (B), the State educational agency shall distribute the schools in each county with which such agency has a share of the local educational agency’s total grant that is no 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—
(i) 6.50; or
(ii) 15 percent of the total number of children aged 5 through 17 served by the agency.

"(C) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—If the Secretary approves its application, the State educational agency shall distribute the schools in each county with which such agency has a share of the local educational agency’s total grant that is no 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—
(i) 6.50; or
(ii) 15 percent of the total number of children aged 5 through 17 served by the agency.

"SEC. 112A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—Except as otherwise provided in this subpart, 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 each fiscal year if the number of children counted under section 1124(c) who are served by the agency exceeds—
(1) 6.50; or
(2) 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—
(1) 6.50; or
(2) 15 percent of the total number of children aged 5 through 17 served by the agency.

"(c) CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 through 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 poverty level, 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, 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 through 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.

"(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 (4) of the preceding fiscal year) for the purposes of a grant to a State agency, 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, and the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such fiscal year. Where 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 under this paragraph 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.

"(6) 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 (4) of the preceding fiscal year) for the purposes of a grant to a State agency, 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, and the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such fiscal year. Where 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 under this paragraph 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.

"(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 amount per-pupil payment made with funds available under this section for that fiscal year.

"(A) The number of children counted under section 1124(c) for that fiscal year.

"(B) The amount in section 1124(a)(1) 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 use to make grants to local educational agencies that meet the criteria in paragraphs (1)(A) (i) or (ii) that are in ineligible counties.

"(C) ADJUSTABLE REDUCTION RULE.—If the amounts 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) shall be proportionately reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceeding subparagraph applies, such reduced amounts shall be increased on the same basis as they were reduced.

(c) STATES RECEIVING 0.25 PERCENT OR LESS.—If a State receives 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed 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 (c) of section 1124(c), except that only those local educational agencies that 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 counted under section 1124(c) that exceed this section for a fiscal year, the State educational agency shall allocate such funds among the local educational agencies in the State—

\[ \text{continued from previous page} \]
“(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.

“(2) 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, shall be not greater than 0.10.

“(c) Revisions.—The Secretary may revise each State’s equity factor as necessary based on the application of other valid and accepted methods to achieve adequate opportunity for all students, and that method may not be reflected in a coefficient of variation method.

“(2) 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 or aggregate expenditures of the State for one additional fiscal year.

“(2) Reduction of funds.—The Secretary shall reduce the amount of funds awarded to any State under this section in each fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by fallowing below 90 percent of the fiscal effort per student and 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.

“(e) 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.

“III. Study, evaluation, and report of school finance equalization

“(1) General.—A local educational agency may use funds received under this part to—

“(a) extend the length of the school year to 210 days, including necessary increases in compensatory education strategies which include the same or similar activities that will provide for the economically disadvantaged students for which such funds are targeted.

“(b) conduct outreach to and consult with community members, including parents, students, and other stakeholders, to develop a plan consistent with the activities that will be to carry out under this section;

“(c) research, develop, and implement strategies, including changes in curriculum and instruction, to challenge and engage students and to maximize the productivity of common core learning time, as well as provide for the special educational needs of 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 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 local educational agencies serve, in whole or in part, the same geographical area;

“(c) Reallocations.—If a State educational agency provides free public education for children who reside in the school district of another local educational agency, or that portion of the local educational agency’s allocation.

“(d) 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 would use, the State educational agency may reallocate 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.

“(b) Carryover and waiver.

“(1) 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 in any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

“(2) Waiver.—A State educational agency may, upon request and finding, 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) School year extension activities.

“(1) Use of funds.—

“(2) in General.—A local educational agency may use funds received under this part to—

“(a) extend the length of the school year to 210 days, including necessary increases in compensatory education strategies which include the same or similar activities that will provide for the economically disadvantaged students for which such funds are targeted.
(2) Any school district in which at least two percent of the students live below the poverty level qualifies for funding under the Basic Grant Formula. As a result, 9 out of every 10 school districts in the country receive some form of aid under the Formula.

(3) Fifty-eight percent of all schools receive at least some funding under title I of the Elementary and Secondary Education Act of 1965, including many suburban schools with predominantly well-off students.

(4) One out of every 5 schools with concentrations of poor students between 20 and 50 percent receive no funding at all under title I of the Elementary and Secondary Education Act of 1965, in which many suburban schools with predominately well-off students.

(5) In passing the Improving America’s Schools Act of 1994, Congress declared that funds under title I of the Elementary and Secondary Education Act of 1965 would more sharply target high poverty schools by using the Targeted Grant Formula, but annual appropriation Acts have prevented the use of that Formula.

(6) The advantage of the Targeted Grant Formula over other funding formulas under title I of the Elementary and Secondary Education Act of 1965 is that the Targeted Grant Formula provides increased grants per poor child as the percentage of economically disadvantaged students in a school district increases.

(7) Studies have found that the poverty of a child’s family is much more likely to be associated with student disadvantage than the family lives in an area with large concentrations of poor families.

(8) States with large populations of high poverty students would receive significantly more funding if more funds under title I of the Elementary and Secondary Education Act of 1965 were allocated through the Targeted Grant Formula.

(9) Congress has an obligation to allocate funds under title I of the Elementary and Secondary Education Act of 1965 so that such funds can benefit the largest number of economically disadvantaged students.

(b) LIMITATION ON ALLOCATION OF TITLE I FUNDS CONTINGENT ON ADEQUATE FUNDING OF TARGETED GRANTS.—Notwithstanding any other provision of law, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) may not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount made available for targeted grants to local educational agencies under section 1125 of that Act (20 U.S.C. 6335) in the applicable fiscal year is sufficient to meet the purposes of grants under that section.

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” each place such term appears; and

(4) by adding at the end the following:

“Subpart 2—Reading First”

SEC. 121. 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 selecting or developing screening instruments, rigorous diagnostic reading assessments, and classroom-based instructional assessments.

(3) 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.

(4) To strengthen coordination among schools, early literacy programs, and family literacy programs to improve reading achievement for all children.

SEC. 1222. FORMULA GRANTS TO STATES; COM- PETITIVE SUBGRANTS TO LOCAL AGENCIES.

(a) IN GENERAL.—In the case of each State educational agency that in accordance with section 1221(b)(1) of 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 subsection (b) 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 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 (4),—

(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 2006.

(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 reallocate such amount to the remaining States in accordance with paragraph (2).

(4) RESERVATION FROM APPROPRIATIONS.—From the amounts appropriated under section 1002(c) to carry out this subpart for a fiscal year, the Secretary shall—

(A) reserve 1⁄2 of 1 percent for allotments for the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart; and

(B) reserve 1⁄2 of 1 percent for allotments for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs.

(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 subpart, 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.

(c) 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.

(d) 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 number or 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 chapter 6 of title 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 number or percentage of children who are counted under section 1116(c), in comparison to other local educational agencies in the State.

(2) STATE REQUIREMENT.—In distributing subgrants 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.

(3) LOCAL ELIGIBILITY.—In distributing subgrants under this subsection, a local educational agency shall provide funds only 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 1116(c).

(4) 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, administering, screening instruments, rigorous diagnostic reading assessments, and classroom-based instructional assessments.

(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—

(A) may have reading difficulties;

(B) are at risk of not receiving special education based on these difficulties;

(C) 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);

(D) have been 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

(E) are at risk of not achieving a 4th grade proficiency in English proficiency (as defined in section 3501).

(C) Procuring and implementing instructional materials, including education technology necessary to support instruction and curriculum 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, and approaches grounded on scientifically based reading research, includ-
      ing 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) shall be provided by eligible professional development providers.

(4) Promoting reading and library programs that provide access to engaging reading mate-
rial.

(5) Providing training to individuals who volunteer to be reading tutors for students to en-
able the volunteers to support instructional practices that are based on scientific reading re-
search and being used by the student’s teacher.

(6) Assisting parents, through the use of ma-
terials, programs, strategies and approaches (in-
cluding family literacy services), that are based on scientifically based research to help support their children’s reading development.

(7) Collecting and summarizing data—
   (i) to document the effectiveness of this sub-
part in individual schools and in the local edu-
cational agency as a whole; and
   (ii) to stimulate and accelerate improvement by identifying the categories of students identified under section
1226, the Secretary shall award grants under this subpart.

(8) Planning, administration, and report-
ing.

(a) In general.—A State may expend not
more than 25 percent of the amount of the funds made available under paragraph (1) for the ac-
tivities described in this paragraph.

(b) Planning and administration.—A State that
receives a grant under this section may ex-
pend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds provided under this subpart, including the following:

(i) Administering the distribution of competi-
tive subgrants to local educational agencies under section 1226; and

(ii) Collecting and summarizing data—
      (I) to document the effectiveness of this sub-
part in the 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 make an annual report to the Secretary under the grant.

(ii) The report shall include evidence that the State is fulfilling its obligations under this subpart.

(iii) The report shall also include the data required under subsections (c)(7) and (i) to be reported to the State by local edu-
cational agencies. The report shall include a specific identification of those local educational agencies that report significant gains in reading achievement; and such gains based on the disaggregated data, reported in the same manner as data is reported under subsection (c)(3)(I).

(iv) Privacy protection.—Data in the re-
port shall be reported in a manner that protects the privacy of individuals.

(v) Contract.—To the extent practicable, a
State shall enter into a contract with an entity that conducts scientifically based reading re-
search, under which contract the entity will as-
sist the State in producing the reports required under this subpart.

(9) Local planning and administration.—
A local educational agency that receives a sub-
grant under this subsection may use not less than 25 percent of the amount of the funds provided under the subgrant for planning and administration.

(10) Other states of funds.

(A) In general.—A State educational agency that receives a grant under this section may ex-
pend not more than a total of 20 percent of the grants funds to carry out the activities described in paragraphs (3), (4), and (5).

(B) Priority.—A State shall give priority to carry-
ning out the activities described in para-
graph (4)(B).

(11) Professional development.—A State may expend not more than 100 percent of the amount of the funds available under paragraph (1) 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, and approaches grounded on scientifically based reading research, includ-

(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 dif-

(C) shall be provided by eligible professional development providers.

(12) Technical assistance for local edu-
cational agencies and schools.—A State may expend not more than 25 percent of the amount of the funds available under paragraph (1) for one or more of the following activities:

(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, in-
cluding—

(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 programs and ass-

(b) Planning and administration.—A State that
receives a grant under this section may ex-
pend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds provided under this subpart, including the following:

(i) Administering the distribution of competi-
tive subgrants to local educational agencies under section 1226; and

(ii) Collecting and summarizing data—
      (I) to document the effectiveness of this sub-
part in 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 make an annual report to the Secretary under the grant.

(ii) The report shall include evidence that the State is fulfilling its obligations under this subpart.

(iii) The report shall also include the data required under subsections (c)(7) and (i) to be reported to the State by local edu-
cational agencies. The report shall include a specific identification of those local educational agencies that report significant gains in reading achievement; and such gains based on the disaggregated data, reported in the same manner as data is reported under subsection (c)(3)(I).

(iv) Privacy protection.—Data in the re-
port shall be reported in a manner that protects the privacy of individuals.

(v) Contract.—To the extent practicable, a
State shall enter into a contract with an entity that conducts scientifically based reading re-
search, under which contract the entity will as-
sist the State in producing the reports required under this subpart.

(9) Local planning and administration.—
A local educational agency that receives a sub-
grant under this subsection may use not less than 25 percent of the amount of the funds provided under the subgrant for planning and administration.

(10) Other states of funds.

(A) In general.—A State educational agency that receives a grant under this section may ex-
pend not more than a total of 20 percent of the grants funds to carry out the activities described in paragraphs (3), (4), and (5).

(B) Priority.—A State shall give priority to carry-
ning out the activities described in para-
graph (4)(B).

(11) Professional development.—A State may expend not more than 100 percent of the amount of the funds available under paragraph (1) 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, and approaches grounded on scientifically based reading research, includ-

(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 dif-

(C) shall be provided by eligible professional development providers.

(12) Technical assistance for local edu-
cational agencies and schools.—A State may expend not more than 25 percent of the amount of the funds available under paragraph (1) for one or more of the following activities:

(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, in-
cluding—

(i) selecting and implementing a program or programs of reading instruction grounded on scientifically based reading research;
"(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:

(A) Evidence that a local educational agency has carried out its obligations under this subpart.

(B) Evidence that a local educational agency has, for 2 consecutive years, made or exceeded adequate yearly progress in reading for all third grade students meeting the requirements of this subpart.

(C) Evidence that a local educational agency has, for each of the same such consecutive 2 years, demonstrated 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.

(E) Evidence that funds are 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 new or expansion of the agency’s programs under this subpart.

(F) 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 percentage of such third graders in each of the groups described in section 1111(b)(2)(B)(v)(II) in schools receiving funds under this subpart.

(G) Any additional evidence in a local educational agency’s application under paragraph (3) that demonstrates success in the implementation of this subpart.

"(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 have achieved or exceeded the absolute targets for at least two preceding years established pursuant to section 1111(b)(2)(B)(v)(II).

"(6) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subpart 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) APPLICATION.—

(1) IN GENERAL.—A State educational agency that desires to receive a grant under section 1222 shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require. The application shall contain the information described in subsection (b).

(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 provided under that program and minimizes the duplication of effort on the part of such States.

(b) CONTENTS.—An application under this section shall contain:

(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 how the State will—

(A) encourage subgrantees in expanding, continuing, or modifying 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).

(B) take such actions as the Secretary may reasonably require, a State plan containing a description of the following:

(1) How the State will assist local educational agencies in identifying rigorous diagnostic reading assessments.

(2) How the State will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, grounded on scientifically based reading research, 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 Federal, 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 teachers to read.

(E) The extent to which the activities will prepare teachers and other staff with the major components of reading instruction.

(F) How subgrantees 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 grounded reading research.

(G) How the State educational agency will, to the extent practicable, make grants to subgrantees for sums equal to the difference between—

(i) the amount that the subgrantee is eligible to receive under this subpart and the fair share of the costs of such instructional activities under this subpart as determined by the Secretary; and

(ii) the amount of the subgrantee’s costs of such instructional activities which is not eligible to be included in the subgrant.

(H) How the State educational agency—

(i) will build on, and promote coordination among, literacy programs in the State (including but not limited to those programs as defined by the National Institute of Education and Family Literacy Act and the Individuals with Disabilities Education Act), in order to increase the effectiveness of the programs to effectively teach teachers of reading to prepare 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; and

(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences;

(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 services to partners of reading to children and adults, and experts who provide professional development services in writing or developing partnerships for purposes of this part notwithstanding that it does not satisfy the requirements of paragraph (1).

**SEC. 1225. ACCOUNTABILITY.**

(a) STATE ACCOUNTABILITY.—

(1) REDUCTIONS.—If the Secretary makes the determination described in paragraphs (2) or (3)
(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 for 2 consecutive years;

(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 subsequent consecutive year, then the Secretary shall continue to reduce a State’s grant under this subpart in each such consecutive year.

(b) FUNDAL 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 1228(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 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 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. If the local educational agency fails to address the cause or causes for such failure, then the State may reduce or eliminate the grant to that local educational agency.

SEC. 1226. RESERVATIONS FROM APPROPRIATIONS.

(1) From the amounts appropriated to carry out this subpart for a fiscal year, the Secretary—

(A) may reserve not more than 1 percent to carry out section 1227 (relating to national activities);

(B) shall reserve $5,000,000 to carry out section 1228 (relating to information dissemination).

SEC. 1227. NATIONAL ACTIVITIES.

(a) IN GENERAL.—From funds reserved under section 1226, the Secretary—

(1) shall contract with an independent outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart;

(2) may provide technical assistance in achieving the purposes of this subpart to States, local educational agencies, and schools requesting such assistance; and

(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 rights to receive a free appropriate education);

(b) PROCESS.—Such evaluation shall be conducted by an organization outside of the Department that is capable of designing and carrying out an independent evaluation that determines the effects of specific activities carried out by States and local educational agencies under this subpart on improving reading instruction. Such evaluation shall use only data relating to students served under this subpart and shall take into account factors influencing student performance that are not controlled by teachers or education administrators. Such evaluation shall be submitted to the Secretary at the end of each fiscal year.

(c) ANALYSIS.—Such evaluation shall include the following:

(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

(2) An analysis of whether assessment tools used by States and local educational agencies measure the essential components of reading instruction.

(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

(4) An analysis of whether the receipt of a discretionary grant under this subpart results in an increase in the number of children who read proficiently.

(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

(6) A measurement of the extent to which specific rigorous diagnostic reading and screening assessment tools assist teachers in identifying specific reading deficiencies.

(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

(9) An analysis of differences in students’ interest in reading and time spent reading outside of school.

(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to States and local educational agencies on a periodic basis for use in program improvement.

SEC. 1228. INFORMATION DISSEMINATION.

(a) IN GENERAL.—From funds reserved under section 1226, 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 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 feasible, utilize existing information and dissemination networks developed and maintained through other public and private entities including through the Department of Education and the National Center for Family Literacy.

(c) USE OF FUNDS.—The National Institute for Literacy may use not more than 5 percent of funds made available under section 1226(2) for administrative purposes directly related to carrying out activities authorized by this section.

SEC. 1229. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

(a) IN GENERAL.—From funds made available under subsection (a) for a fiscal year, the Secretary shall allot to each educational agency having an application approved under subsection (c)(1) an amount that bears the same relation to the funds as the amount the State educational agency received under part A for the preceding fiscal year bears to the amount all such State educational agencies received under part A for the preceding fiscal year, to increase literacy and reading skills by improving school libraries.

(b) WITHIN-STATE ALLOCATIONS.—Each State educational agency that receives an allotment under subsection (a) for a fiscal year—

(1) may reserve not more than 3 percent to provide technical assistance, disseminate information about school library media programs that are effective and based on scientifically based research, and pay administrative costs, related to activities under this section; and

(2) shall allocate the allotted funds that remain after making the reservation under paragraph (1) to each local educational agency in the State having an application approved under subsection (c)(2) (for activities described in subsection (c)(1)) in an amount that bears the same relation to such remainder as the amount the local educational agency received under part A for the preceding fiscal year bears to the amount received by all such local educational agencies in the State for the fiscal year.

(c) APPLICATION.—(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring assistance under this section shall submit to the Secretary an application describing how the State educational agency will assist local educational agencies in meeting the requirements of this section and in using scientifically based research to implement effective school library media programs.

(2) THE STANDARDS AND TECHNIQUES.—(A) The standards and techniques the State educational agency will use to evaluate the
quality and impact of activities carried out under this section by local educational agencies to determine the need for technical assistance and whether to continue funding the agencies under this section.

"(2) LOCAL EDUCATIONAL AGENCY.—Each local educational agency desiring assistance under this section shall submit to the State educational agency, in such manner, and containing such information as the State educational agency shall require. The application shall contain a description of—

(A) its needs assessment relating to the need for school library media improvement, based on the age and condition of school library media resources, including book collections, access of students to the Internet and other advanced technology, and the availability of well-trained, professionally certified school library media specialists, in schools served by the local educational agency;

(B) how the local educational agency will extensively involve school library media specialists, teachers, administrators, and parents in the activities assisted under this section, and the manner in which the local educational agency will carry out the activities described in subsections (a) and (c) of this section; and

(C) the manner in which the local educational agency will effectively coordinate the funds made available under this section with Federal, State, and local funds and activities under this part and other literacy, library, technology, and professional development funds and activities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this part for fiscal years 1992 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(e) WITHIN-LEA DISTRIBUTION.—Each local educational agency receiving funds under this section shall distribute—

(1) percent of the funds to schools served by the local educational agency that are in the top quartile in terms of percentage of students enrolled from families with incomes below the poverty line;

(2) percent of the funds to schools that have the greatest need for school library media improvement based on the needs assessment described in subsection (c)(2)(A);

(3) appropriate, and

(4) for each fiscal year, the Secretary shall reserve not more than 1 percent for annual, independent, national evaluations of the activities assisted under this section. The evaluations shall be conducted not later than 3 years after the date of enactment of the Better Education for Students and Teachers Act, and each year thereafter.

"SEC. 1220. DEFINITIONS.

"For purposes of this part:

(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' means—

(A) means individuals who have responsibility for teaching children to read; and

(B) includes principals, teachers, supervisors of instruction, librarians, school library 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—

(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) ROBUST DIAGNOSTIC READING ASSESSMENT.—The term 'robust 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, or 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' means research that—

(A) employs systematic, empirical methods that draw on observation or experiment;

(B) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(C) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(D) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective review.

SEC. 122. EARLY READING INITIATIVE.

(1) 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 3 years, to eligible applicants to carry out the authorized activities described in subsection (e).

(2) ELIGIBLE APPLICANT.—In this part the term 'eligible applicant' means—

(1) one or more organizations or agencies described in paragraph (1) in collaboration with one or more organizations or agencies described in paragraph (2); and

(2) one or more public or private organizations, agencies, acting in one or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program) that support the age-appropriate development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research.

(3) To demonstrate language and literacy activities that support the age-appropriate development of—

(A) spoken language and oral comprehension abilities,

(B) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes,

(C) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

(D) knowledge of the purposes and conventions of print.

(4) To integrate these learning opportunities with learning opportunities at preschools, child care agencies, and Head Start agencies, and with family literacy services.

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 5 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (e).

(b) DEFINITION OF ELIGIBLE APPLICANT.—In this part the term 'eligible applicant' means—

(1) one or more local educational agencies that are eligible to receive a subgrant under subpart 2; and

(2) one or more public or private organizations, agencies, acting in one or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program) that support the age-appropriate development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research, and are 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); or

(c) APPLICATIONS.—An eligible applicant that receives 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 program, including demographic and socioeconomic information on the preschool age 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 preschool age children;

"(3) how the proposed project will provide services to materials that are based on scientifically based research on early language acquisition, prereading activities, and the development of spoken language skills;

"(4) how the proposed project will help staff in the programs to meet the diverse needs of preschool age children in the community, including such children with limited English proficiency, and other special needs;

"(5) how the proposed project will help preschool age children, particularly such 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 evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age 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 Literacy, and the Department of Health and Human Development, the National Institute for Early Literacy, and the National Institute for Literacy, and the Department of Health and Human Services, in order to coordinate the activities undertaken under this subpart with preschool age programs administered by the Department of Health and Human Services.

"(e) AUTHORIZED ACTIVITIES.—An eligible applicant that receives a grant under this subpart shall submit an annual report to the Secretary regarding the eligible applicant’s progress in addressing the purposes of this subpart. The report shall include, at a minimum, a description of—

"(1) the tools, materials, and measures used by the eligible applicant;

"(2) the professional development activities offered to the staff of the eligible applicant who serve preschool age children and the amount of such professional development;

"(3) the types of programs and ages of children served; and

"(4) the results of the evaluation described in section 1242(c)(7).

"SEC. 1246. EVALUATIONS.

"From the total amount appropriated under section 1202(b)(3) for the fiscal years 2002 through 2006, the Secretary shall reserve not more than $5,000,000 to conduct, in consultation with the 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 preschool age children.

"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 the 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 preschool age children.

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; and

"(2) by inserting after paragraph (1) the following:

"(2) to read as follows:

"(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 (3) (as so redesignated), by striking “and” after the semicolon;

"(4) in paragraph (6) (as so redesignated), by striking the period and inserting “;”;

"(5) by adding at the end the following:

"(7) ensure that migratory children receive full and appropriate opportunities to meet the same challenges 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 (a) (in paragraph (1), by striking “a comprehensive” and all that follows through “and educational information regarding all students served under this part. Such information shall include—

"(i) immunization records and other health information;

"(ii) elementary and secondary academic history, including partial credit, and information, 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 purposes for which such data shall be used, and the standards that such data shall meet.

"(C) Such system of electronic data collection and transfer is required not later than 1 year after the date of enactment of the Better Education for Students and Teachers Act.
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 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 contained in 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 students from institutionalization to further school and in determining the number of students or full-time equivalent students in each State if such interim measures are required.

(2) subsection (c), by striking "$8,000,000" and inserting "$10,000,000";

(3) in subsection (d),(1), by striking "$1,000,000" and inserting "$5,000,000"; and

(4) inserting 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 of the 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 institutionalization with a support system to ensure their continued education.

“(b) PROGRAM AUTHORIZED.—In order to carry out this subpart, the Secretary shall make grants to State educational agencies to enable such 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 title I.

“(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 educational agency amounts necessary to make subgrants to State educational agencies.

“SEC. 1412. ALLOCATION OF FUNDS.

“(a) SUBGRANTS TO STATE AGENCIES.—

“(1) IN GENERAL.—Each State agency described in section 1411 is eligible for a subgrant under this chapter, for each fiscal year, equal to the 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;

“(ii) are enrolled for at least 20 hours per week in education programs in institutions for neglected or delinquent children and youth; or

“(iii) are enrolled for at least 20 hours per week in education programs in institutions for neglected or delinquent children and youth; and

“(B) 60 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) may be taken to ensure continuity of services required.

“(3) REPORT TO CONGRESS.—(A) Not later than the 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 participation in 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 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) RATALE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under this subpart is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce 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 chapter, as appropriate, consistent with section 5006.

“(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; and

“(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 1411;

“(iii) ensure that the State agencies receiving subgrants under this chapter comply with applicable statutory and regulatory requirements; and

“(iv) provide such other information as the Secretary may reasonably require.

“(2) DURATION OF THE PLAN.—Each State plan shall—

“(A) remain in effect for the duration of the fiscal year; 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.

“(C) grant approval provided under this subpart; and

“(D) peer review.—The Secretary shall review and 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 State, local, and other eligible State agencies 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 identify 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 coordinate with businesses for training and professional 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; and

“(9) describes how appropriate professional development will be provided to teachers and other staff;

“(10) designates an individual in each affected institution to coordinate issues related 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 learning that they are delinquent children; and

“(13) provides assurances that the agency will work with parents to secure parents’ assistance in improving the educational achievement of their children, in preventing their children’s further involvement in delinquent activities;

“(14) provides assurances that the agency works with special education in youth in order to meet requirements of individualized education programs 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 youth 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 and other comparable programs.

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 requirements of section 1120A without regard to the subject areas in which instruction is given during the three-year period.

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 such 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 and will implement and evaluate the institution-wide or project-wide program to meet the unique needs of such students;

“(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, secondary school diploma or its recognized equivalent, or find employment after leaving the institution;

“(4) describes the instructional program, pupil services, and will include, 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 project-wide program 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;

“(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 less than 5 percent and not more than 30 percent of the amount such agency receives under this chapter for any fiscal year to support—

(1) projects that facilitate the transition of children and youth from State-operated institutions to local educational agencies; or

(2) the successful reentry of youth offenders, who are age 20 or younger and have received a secondary school diploma or recognized equivalent, into postsecondary education and vocational training programs through strategies assigned by the State agency, to prepare the youth for, postsecondary education and vocational training programs, such as—

(i) preplacement programs that allow adjudicated or delinquent students to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

(ii) workshops designed by higher education and private or public employers and partners to create programs to help students make a successful transition to postsecondary education and vocational training programs, such as—

(iii) essential support services to ensure the success of the youth, such as—

(p) personal, vocational, and academic counseling;

(5) placement services designed to place the youth in a university, college, or junior college program;

(6) work-study programs;

(7) on-the-job training programs;

(8) on-the-job mentoring programs; and

(9) job placement services.

(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through subcontract or other arrangement with one or more local educational agencies, other public agencies, private nonprofit organizations, or public or private colleges, universities, or other postsecondary institutions.

(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

SEC. 1419. EVALUATION, TECHNICAL ASSISTANCE, ANNUAL MODEL PROGRAM.

“The Secretary shall reserve not more than 5 percent of the amount made available to carry out this chapter for a fiscal year—

(1) to develop a model to evaluate the effectiveness of programs assisted under this chapter;

(2) to provide technical assistance to and support the capacity building of State agency programs assisted under this chapter; and

(3) to create an annual model correctional youth offender program evaluation which a national award is given to programs assisted under this chapter which demonstrate program excellence in—

(a) transition services for reentry in and completion of regular or other education programs operated by a local educational agency;

(b) transition services to job training programs and employment, utilizing existing support programs such as One Stop Career Centers;

(c) transition services for participation in postsecondary education programs;

(D) the successful reentry into the community; and

(3) the impact on recidivism reduction for juvenile and adult 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.

(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education or training;

(2) provide services 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 who reside outside the boundaries of the local educational agency, associated with such facility.

(b) SPECIAL RULE.—A local educational agency which includes a correctional facility within its boundaries shall disseminate information to students about 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 associated with 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 schools 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 and how the school will coordinate existing educational programs to meet unique educational needs;

'(5) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

'(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 services in the 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 education and career achievement of children, assist in dropout prevention activities, and prevent the involvement of their children in delinquency 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 educational 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) as appropriate, a description of how participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education plan; and

'(13) if applicable, a description of how 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) school 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 centers and school counseling, will improve the likelihood such individuals will complete their education; and

'(3) programs to meet the unique educational needs of youth dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

SEC. 1425. 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 educational services while in the facility;

'(3) where feasible, provide transition assistance to participating students in the 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 re-enter school once their term has been completed or provide such youth with the skill 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 state 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 delinquency 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 the percentage of 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 with local educational agencies that conduct a program under chapter 1 or 2 shall evaluate the program, disaggregating data on participation by sex, if feasible, by race, ethnicity, age, and, if possible, by at least 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;

'(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution; and

'(5) participate in postsecondary education and job training programs.

'(b) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use appropriate 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 the Secretary; 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, as defined in section 1405(b)(3) of title 28, United States Code.

'(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 in 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 program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

'(4) DELINQUENT CHILDREN AND YOUTH.—The term '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—NATIONAL ASSESSMENT OF TITLE I

SEC. 1501. NATIONAL ASSESSMENT OF TITLE I.

Section 1501 (20 U.S.C. 6491) is deleted and replaced with the following:

SEC. 1501. NATIONAL ASSESSMENT OF TITLE I.

'(a) NATIONAL ASSESSMENT.—The Secretary shall conduct a national evaluation to assess the impact of the policies enacted into law under title I of the Better Education for Students and Teachers Act on States, local educational agencies, and students.

'(1) Such assessment shall be planned, reviewed, and conducted in consultation with an
independent panel of researchers. State practitioners, local practitioners, and other appropriate individuals.

(2) The assessment shall examine, at a minimum, the following:

(A) made progress towards the goal of all students reaching the proficient level in at least reading and math based on a State’s content and performance standards and the State assessments required under section 1111 and on the National Assessment of Educational Progress; and

(B) implemented scientifically-based reading instruction;

(C) implemented the requirements for the development of assessments for students in grades 3–8 and administered such assessments, including the time and cost required for their development and how well they meet the requirements for assessments described in this title;

(D) defined adequate yearly progress and what has been the impact of applying this standard for adequacy to schools, local educational agencies, and the State in terms of the numbers not meeting the standard and the year to year changes in such identification for individuals and educational agencies;

(E) publicized and disseminated the local educational agencies report cards to teachers, school staff, students, and the community;

(F) the school improvement requirements described in section 1116, including—

(i) the number of schools identified for school improvement and how many schools remain in this status;

(ii) the types of support provided by the State and local educational agencies to schools and local educational agencies identified as in need of improvement and the impact of such support on student achievement;

(iii) the number of parents who take advantage of the choice provisions of this title, the costs associated with implementing these provisions, and the impact of attending another school on student achievement;

(iv) the number of parents who choose to take advantage of the supplemental services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental services on student achievement; and

(G) kinds of actions that are taken with regards to schools and local educational agencies identified for reconstitution.

(G) used funds under this title to improve student achievement, including how schools have provided either schoolwide improvement or targeted assistance and provided professional development to school personnel;

(H) used funds made available under this title to provide preschool and family literacy services and the impact of these services on students’ school readiness;

(I) added or removed meaningful opportunities to be involved in the education of their children at school and at home;

(J) used reserved funds, including the State reservation of funds for school improvement, to target local educational agencies and schools with the greatest needs;

(K) used State and local educational agency funds and resources to support schools and provide technical assistance to turn around failing schools; and

(L) used State and local educational agency funds and resources to help schools with 50 percent or more students living in families below the poverty line meet the requirement of having all teachers certified and state-licensed in four years.

(3) STUDENT ACHIEVEMENT.—As part of the national assessment, the Secretary shall evaluate the effectiveness of the programs and services contained in this title, especially part A, in improving student achievement. Such evaluation shall—

(1) provide information on what types of programs and services are most likely to help students reach the States’ performance standards for proficient and advanced;

(2) examine the effectiveness of comprehensive school reform and improvement strategies for raising student achievement;

(3) to the extent possible, have a longitudinal design that contains a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(2) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measurement strategies, including—

(A) the developmentally appropriate practice requirements described in section 1116(d)(2); and

(B) STUDY.—(A) the Secretary shall conduct a study to examine the effectiveness of the programs, services, and activities under this section; and

(B) the Secretary shall reserve—

(1) the assessment and the effectiveness of the programs and services identified for reconstitution.

(11) the effectiveness of the programs and services identified for reconstitution.

(iii) the effectiveness of the programs and services identified for reconstitution.

(3) to the extent possible, have a longitudinal design that contains a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(2) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measurement strategies, including—

(A) the developmentally appropriate practice requirements described in section 1116(d)(2); and

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(B) the Secretary shall reserve—

(1) the assessment and the effectiveness of the programs and services identified for reconstitution.

(iii) the effectiveness of the programs and services identified for reconstitution.

(3) to the extent possible, have a longitudinal design that contains a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(2) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measurement strategies, including—

(A) the developmentally appropriate practice requirements described in section 1116(d)(2); and

(B) STUDY.—(A) the Secretary shall conduct a study to examine the effectiveness of the programs, services, and activities under this section; and

(B) the Secretary shall reserve—

(1) the assessment and the effectiveness of the programs and services identified for reconstitution.

(iii) the effectiveness of the programs and services identified for reconstitution.

(3) to the extent possible, have a longitudinal design that contains a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(2) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measurement strategies, including—

(A) the developmentally appropriate practice requirements described in section 1116(d)(2); and

(B) STUDY.—(A) the Secretary shall conduct a study to examine the effectiveness of the programs, services, and activities under this section; and

(B) the Secretary shall reserve—

(1) the assessment and the effectiveness of the programs and services identified for reconstitution.

(iii) the effectiveness of the programs and services identified for reconstitution.

(3) to the extent possible, have a longitudinal design that contains a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(2) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measurement strategies, including—

(A) the developmentally appropriate practice requirements described in section 1116(d)(2); and

(B) STUDY.—(A) the Secretary shall conduct a study to examine the effectiveness of the programs, services, and activities under this section; and

(B) the Secretary shall reserve—

(1) the assessment and the effectiveness of the programs and services identified for reconstitution.

(iii) the effectiveness of the programs and services identified for reconstitution.

(3) to the extent possible, have a longitudinal design that contains a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).
than $50,000.

(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. 1608. AWARDS TO ELIGIBLE ORGANIZATIONS.

(a) AWARDS.—A State that receives an allotment under section 1608 for a fiscal year shall use not less than 1$50,000 to award grants, contracts, or cooperative agreements on a competitive basis to eligible organizations that serve the following purposes:

(A) to provide information to the community in a manner that is understandable and accessible;

(B) to carry out the proposed program with community technology centers.

Remarks: This subsection authorizes the Secretary to award grants, contracts, or cooperative agreements on a competitive basis to eligible organizations for the purpose of creating or expanding community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

(2) provide technical assistance and support to community technology centers.

(b) ELIGIBLE APPLICANTS.—In order to be eligible to receive an award under this subpart, an eligible organization shall submit an application to the State at such time, in such manner, and containing 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, if the program were located in such a school, it would improve the academic performance and achievement and positive youth development;

(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;

(H) a description of a preliminary plan for how the center will continue after funding under this subpart ends; and

(I) an assurance that the proposed program will, to the maximum extent practicable, carry out the proposed program with community technology centers.

Remarks: This subsection authorizes the Secretary to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist such applicants in—

(1) creating or expanding community technology centers;

(2) providing technical assistance and support to community technology centers.

(2) PERIOD OF AWARD.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 3 years.

(3) SERVICE OF AMERICORPS PARTICIPANTS.—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use of participants in National Service programs carried out under title I of the National and Community Service Act of 1990 in community technology centers.

SEC. 1612. ELIGIBILITY AND APPLICATION REQUIREMENTS.

(a) ELIGIBLE APPLICANTS.—In order to be eligible to receive an award under this subpart, an applicant shall—

(1) have the capacity to expand significantly access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access); and

(2) be—

(A) an entity such as a foundation, museum, library, nonprofit business, or private nonprofit organization, or community-based organization;

(B) a State educational agency;

(C) a local education agency; or

(D) a consortium of entities described in paragraphs (A) and (B).

(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, and containing such information, as the Secretary may require. Such application shall include:

(1) a description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related training for disadvantaged residents of an economically distressed urban or rural community;

(2) a demonstration of—

(A) the commitment, including the financial commitment, of entities such as institutions, organizations, business and other groups in the community that will provide support for the creation, operation and continuation of the proposed project; and

(B) the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community;

(3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and

(4) a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

(c) MATCHING REQUIREMENTS.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

SEC. 1635. USES OF FUNDS.

(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

(1) creating or expanding community technology services that expand access to information technology and related training for disadvantaged residents of urban or rural communities; and

(2) evaluating the effectiveness of the project.

(b) PERMISSIBLE USE.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of school programs, academic achievement, lifelong learning, and workforce development, such as the following:

(A) After-school activities in which children and youth use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

(B) Adult education and family literacy activities through technology and the Internet, including

(i) General Education Development, English as a Second Language, and adult basic education classes or programs;

(ii) introduction to computers;

(iii) intergenerational activities; and

(iv) lifelong learning opportunities.

(C) Career development and job preparation activities.

(D) training in basic and advanced computer skills; and

(E) resume writing workshops; and

(F) access to databases of employment opportunities, career information, and other online materials.

(G) Development of business activities, such as—

(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

(ii) access to information on business start-up programs that is available online, or from other sources.

(E) Activities that provide home access to computers, information technology training and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked or stand-alone based television devices, and other technology.

SEC. 1614. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—For purposes of carrying out this subpart, there is authorized to be appropriated $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(C) 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 may achieve 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 allotment funds 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) ALLOCATIONS.—

"(A) RESERVATIONS.—Of the amount appropriated under section 1702(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;

(ii) not more than 3 percent to carry out the purpose described in section 1707; and

(iii) 3 percent to promote quality initiatives described in section 1708.

"(B) IN GENERAL.—Of the amount appropriated under section 1702(h) that remains after making the reservation under subparagraph (A), each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as 1/3 bears to the remainder for the fiscal year preceding the 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 reallocate such funds to other States that do not apply in proportion to the amount allotted to such other State under paragraph (B).

"(B) SUBGRANTS.—A subgrant to a local educational agency or consortium shall—

(i) be of sufficient size and scope to support the initial costs of comprehensive school reforms selected and designed by each school identified in the application of the local educational agency or consortium;

(ii) in an amount not less than $30,000 for each participating school; and

(iii) 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 reform.

"(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 assistance 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 the grant. The amount of the assistance, a description of the comprehensive school reforms selected and used, and a copy of the State’s evaluation of the implementation of comprehensive school reforms supported under this part and the student results achieved.
SEC. 1705. LOCAL APPLICATIONS.

(a) IN GENERAL.—Each local educational agency or consortium of local educational agencies desiring a grant 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 this part, and that plan to implement a comprehensive school reform program, including the projected costs of such a program;

(2) describe the comprehensive school reform programs and approaches used to address school dropout prevention and reentry and 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;

(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 comprehensive 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 grant under this part shall provide the grant 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 plan under that part that—

(1) employing proven 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;

(2) integrating a comprehensive design for effective school functioning, including instruction, 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, and administrative personnel for their professional development;

(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) other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the comprehensive school reform program.

(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches to that plan to develop the school’s own comprehensive school reform program 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 authorized 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.

SEC. 1708. QUALITY INITIATIVES.

(a) The Secretary, through grants or contracts, shall promote—

(1) a public-private effort, in which funds are matched by the private sector, to assist States, local educational agencies, and schools, in making informed decisions upon approving or selecting providers of comprehensive school reform, consistent with the requirements described in section 1706(a); and

(2) activities to foster the development of comprehensive school reform programs and approaches used to provide effective capacity building for comprehensive school reform providers to expand their work in more schools, assure quality, and promote effective practices that such schools will implement.

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 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 the targeting of 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 school reform models and strategies using 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 grants; 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) NATIONAL GUIDELINES.—The Secretary shall develop uniform national guidelines for the recognition program that shall be used to select schools from nominations submitted by State educational agencies.

(c) ELIGIBLE SCHOOLS.—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.

(d) 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) DURATION.—The Secretary may award a project under this subsection for a period of not more than 5 years.

SEC. 1821. PROGRAM AUTHORIZED.

(a) GRANTS.—

(1) DISCRETIONARY GRANTS.—If the sum appropriated under section 1002(f) for a fiscal year is more than $250,000,000, 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 this subsection.

(b) FORMULA.—If the sum appropriated under section 1002(f) for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use an amount equal to that sum to make awards to States 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.

(c) 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 Philippines, the Republic of Palau, and the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau, in the Federated States of Micronesia, the Republic of the Federated States of Micronesia, the Republic of Palau, and Bureau of Indian Affairs for purposes of serving schools funded by the Bureau, in the Federated States of Micronesia, the Republic of Palau, and Bureau of Indian Affairs for purposes of serving schools funded by the Bureau. From such amount that is allocable 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 develop and implement dropout prevention programs; and

(iii) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

(d) DURATION.—A grant under this subpart shall be awarded—

(1) 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) other measures, such as poverty rates;

(2) 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;

(3) 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

(4) 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.

(e) COMMUNITY-BASED ORGANIZATIONS.—A State educational agency serving the school that—

(1) is—

(A) a public school (including a public alternative school); or

(B) a charter school; and

(2) meets all of the requirements under part A, including a comprehensive school dropout prevention and reentry program; and

(f) PROGRESS INCENTIVES.—The Secretary shall provide assistance to schools served by the State educational agency serving the school that—

(1) have developed and implemented comprehensive school dropout prevention programs;

(2) provide assistance to schools that have shown improvement in reducing the rate of school dropouts;

(3) meet the definition of a comprehensive school dropout prevention program;

(4) participate in a schoolwide program under section 1114 during the grant period; and

(5) have demonstrated progress toward reducing the rate of school dropouts.

(g) REPORTING.—To receive funds under this subpart for a fiscal year after the first fiscal year for which funds are provided 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) (school dropout rates), and a certification of progress from the eligible entity whose strategies the school is implementing.

(h) ACCOUNTABILITY.—On the basis of the reports submitted under subsection (a), the Secretary shall evaluate the extent of the activities assisted under this subpart on school dropout prevention compared to a control group.

(i) STATE RESPONSABILITIES.

(1) The Secretary shall develop and implement data collection procedures so that information is collected regarding school dropout rates at the school district level for each local educational agency that receives funds under this subpart.

(2) The data collected under this subpart shall be used to improve the accuracy of data collected by the National Center for Education Statistics' Common Core of Data, as information under section 1811(a), according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

SEC. 1828. SCHOLL DROPPUT 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 in accordance with the standards established by the National Center for Education Statistics' Common Core of Data.
infringements 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. 181. DEFINITIONS.

In this part—

(1) 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 1111(f)(1) of the Elementary and Secondary Education Act of 1965 and provisions applicable to students with disabilities;

(2) 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 G—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

SEC. 171. STATEMENT OF POLICY.

Section 721(i) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431(i)) is amended by striking “should not be” and inserting “is not.”

SEC. 172. GRANTS FOR STATE AND LOCAL ACTIVITY

Section 722 of such Act (42 U.S.C. 11432) is amended—

(a) in subsection (c)—

(i) by inserting “and” after “‘Samoa,’” and “Palau’”;

(ii) by striking “, and Palau” and all that follows through “(Palau)”;

(iii) by adding at the end the following:

“(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(i), 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’s or youth’s status as homeless.

(B) EXCEPTION.—Notwithstanding subparagraph (A), paragraphs (1)(H) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of homeless children or youth in schools, a State that has a separate school for homeless children or youth that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if—

(i) the school meets the requirements of subparagraph (C);

(ii) any local educational agency serving a school that the homeless children and youth enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

(iii) the State is otherwise eligible to receive funds under this subtitle.

(C) SCHOOL REQUIREMENTS.—For the State to be eligible to receive the funds, the school shall—

(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

(1) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth); and

(2) reviews the general rights provided under this subtitle; and

(3) specifically states—

‘‘(aa) the choice of schools homeless children and youth are eligible to attend, as provided in subsection (g)(3)(A);’’

‘‘(bb) that no homeless child or youth is required to attend a separate school for homeless children or youth;’’

‘‘(cc) that homeless children and youth shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs;’’

‘‘(dd) that homeless children and youth should not be stigmatized by school personnel; and

‘‘(ee) contact information for the local liaison for homeless children and youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent’s or guardian’s (or youth’s) choice of schools, as provided in subsection (g)(3)(A); and

‘‘(ff) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;’’

(ii) ensure that the parent or guardian (or youth) receive the information required by this part in a form that is understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth);

(iii) demonstrate in the school’s application for funds under this subtitle that such school—

(I) is complying with clauses (i) and (ii); and

(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools (so long as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities);

(D) SCHOOL INELIGIBILITY.—A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subsection (C)(v) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B) shall—

(i) implement a coordinated system for ensuring that homeless children—

(I) are advised of the choices of schools provided in subsection (g)(3)(A);

(II) are immediately enrolled in the school selected in accordance with subsection (g)(3)(C); and

(III) are provided necessary services, including the transportation necessary to allow homeless children and youth to exercise their choices of schools in accordance with subsection (g)(4); and

(ii) document that written notice has been provided—

(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school described in subparagraph (B); and

(II) in accordance with subsection (g)(1)(H)(ii); and

(iii) prohibit schools within the agency’s jurisdiction from referring homeless children youth to, or enrolling homeless children and youth to enroll in or attend, a separate school described in subparagraph (B);

(1) that, in accordance with such schools for homeless children or youth, other than schools described in subparagraph (B); or

(2) that, to the extent possible, do not remove any barriers that exist in schools within the agency’s jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B);

(b) in subsection (d)—

(i) by inserting “or” after “Samoa,’”; and

(ii) by striking “, and Samoa,’”; and

(iii) by adding at the end the following:

“(1) in subsection (c)—

(I) the school meets the requirements of subparagraph (C); and

(II) the Committee on Education and the Workforce of the House of Representatives, the Committee on Education of Homeless Children and Youth, and shall comply with any requests for information from the Secretary and State Coordinators;

(2) in subsection (e) to—

(I) the President;

(II) the Committee on Education and the Workforce of the House of Representatives, the Committee on Education of Homeless Children and Youth, and

(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

(G) DEFINITION.—In this paragraph, the term ‘covered county’ means—

(i) San Joaquin County, CA;

(ii) Orange County, CA;

(iii) San Diego County, CA; and

(iv) Maricopa County, AZ.

(P) 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—

(i) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to 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;

(ii) develop and carry out the State plan described in subsection (g);

(iii) 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;

(iv) 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;

(v) 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 coordinator of the state context, or exceptional living programs for homeless youth); “(C) local educational agency liaisons for homeless children and youth; and “(D) networks of organizations and groups representing homeless children and youth and their families; “(6) and other 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(c)(3);” and “(4) in subsection (g), “(A) in paragraph (1)— “(i) in subparagraph (E)— “(II) 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 “(6) COORDINATION.—“(A) IN GENERAL.—Each local educational agency serving 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.— “(1) IN GENERAL.—Each local educational agency serving a homeless child or youth assigned under this subtitle shall, according to the child’s or youth’s best interest— “(i) continue the educational program or tuition for the child’s or youth’s education in the school of origin— “(II) for the duration of their homelessness; “(II) the child becomes permanently housed, for the duration of the academic year; or “(III) in any case in which a family becomes homeless between academic years, for the following academic year; “(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. “(2) 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 children or youth engaged in school, doing so is contrary to the youth’s wish; and “(iii) 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 guardians; “(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’s or youth’s wishes, or the child’s or youth’s best interest, such dispute shall be heard by, and decided by, the appropriate authorities for such immunizations. “(iv) DEFINITION OF SCHOOL 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. “(B) ENROLLMENT 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 other 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 102 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) 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 services of the special needs 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) LIASON.— “(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 their 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 Early 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) publicly post 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 local educational agency serving homeless children and youth. “(C) LOCAL AND STATE COORDINATION.—Liaisons for homeless children and youth shall, as a part of their duties, coordinate 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 be the individual charged with the duty of coordinating with the appropriate authorities for such immunizations. “(E) by striking paragraph (9). “SEC. 173. LOCAL EDUCATIONAL AGENCY GRANTS. Section 723 of such Act (42 U.S.C. 14433) is amended— “(2) 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 extent feasible and practicable, be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals; and “(iii) shall be designed to improve or enhance 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, supplement—

The rest of the text is truncated and not visible.
“(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 who are unaccompanied by a parent or guardian; and  
“(E) to which the local educational agencies establish measurable and observable criteria or standards to evaluate service outcomes for homeless children and youth.”

SEC. 174. 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 this Act, guidelines that describe 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 immigration 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.—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 extent to which 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 to be necessary and relevant to carry out this subtitle.”

SEC. 175. 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;  

(2) by inserting before paragraph (4) (as so redesignated) the following:  

“(1) the term ‘homeless children and youth’—  

“(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and  

“(B) includes—  

“(i) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;  

“(ii) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); and  

“(iii) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and  

“(C) migratory children (as such term is defined in section 1396(p)(2) of the Elementary and Secondary Education Act of 1965) who qualify as homeless for purposes of this subtitle because the children are living in circumstances described in this paragraph;  

“(2) the terms ‘enroll’ and ‘enrollment’ include attending classes and participating fully in school activities;  

“(3) 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;  

“(4) in paragraph (4) (as so redesignated), by striking “and” after the semicolon;  

“(5) in paragraph (5) (as so redesignated), by striking the period and inserting “;” and  

“(6) the term ‘unaccompanied youth’ includes a youth not in the physical custody of a parent or guardian.”

SEC. 176. 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. 177. 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) SECRETARIES.—Section 724(f) of such Act (as amended by section 174(3)) is amended by striking “subsection (d)” and inserting “subsection (c)”.

SEC. 178. LOCAL EDUCATIONAL AGENCY SPENDING AUDITS.  
(a) AUDITS.—The Office of the Inspector General of the Department of Education shall conduct audits of local educational agencies that receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 in each fiscal year to more clearly determine the extent to which local educational agencies are expending such funds. Such audits shall be conducted in 6 local educational agencies that represent the size, ethnic, economic and geographic diversity of local educational agencies and shall examine the extent to which funds have been expended for academic instruction in the core curriculum and activities unrelated to academic instruction in the core curriculum, such as the purchase of janitorial, utility and other maintenance services, the purchase and lease of vehicles and other equipment for travel and attendance costs at conferences.  

(b) REPORT.—Not later than 3 months after the completion of the audits under subsection (a), the Inspector General of the Department of Education shall submit a report on each audit 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 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.  
“(a) IN GENERAL.—The purpose of this part is to provide grants to State educational agencies, local educational agencies, 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 for improvements in student academic achievement and student performance.  

SEC. 2102. DEFINITIONS.  
“(a) IN GENERAL.—For the purpose of carrying out this title, 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.”}

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“(a) set by the State for both grade appropriate academic subject knowledge and teaching skills;”

“(b) the same for all teachers in the same academic subject and same grade level throughout the State; and

“(c) 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 clause (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 101(a) of the Elementary and Secondary 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 teaches 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) consist of structured guidance and regular and ongoing support for beginning teachers, that is developmentally directed toward—

“(i) helping teachers to implement the State’s professional performance standards and to improve their teaching skills; and

“(ii) improving 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;

“(IV) use appropriate, technology-based tools and techniques into the curriculum and

“(V) encourage and provide instruction on how to work with and involve parents to foster student achievement;

“(B) are sustained, intensive, and school-wide;

“(C) are aligned with—

“(i) relevant content standards, student performance standards, and assessments; and

“(ii) the curricula and programs tied to the standards described in clause (i);

“(D) are of high quality and sufficient duration to have a positive and lasting impact on classroom instruction, and are not one-time workshops; and

“(E) are based on the best available research on teaching and learning.

“(10) TEACHER MENTORING.—The term ‘teacher mentoring’ means—

“(A) consist of structured guidance and regular and ongoing support for beginning teachers, that is developmentally directed toward—

“(i) helping teachers to implement the State’s professional performance standards and to improve their teaching skills; and

“(ii) as part of a multiyear, developmentally directed 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;

“(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.

“(11) AUTHORIZATION OF APPROPRIATIONS.—

“(a) GRANTS TO STATES, LOCAL EDUCATIONAL AGENCIES, AND ELIGIBLE PARTNERSHIPS.—There are authorized to be appropriated to carry out this part $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 of this part $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 2102(b) for a fiscal year, the Secretary shall reserve—

“(i) ½ of 1 percent for payments to the Secretary for the outlying areas, to be distributed among the outlying areas in the amounts determined by the Secretary for fiscal years 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).

“(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 reserve—

“(i) an amount that bears the same relationship to the total amount allocated to the outlying areas as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent available data, bears to the number of those individuals in all such States; and

“(ii) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals age 5 through 17 from the State who were from low-income families, are high-achieving students, as determined by the Secretary on the basis of the most recent available 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.

“(2) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallocate the amount of the allotment to the remaining States in accordance with this subsection.

“(3) 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 reasonably require.

“(b) CONTENTS.—Each application submitted under this section shall include the following:

“(1) A description of the State, including grants 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 those activities are expected to improve student performance and outcomes.

“(2) A description of how the State educational agency will ensure that all funds awarded 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 teacher education and the educational opportunities for students.

“(5) A description of how the State educational agency will coordinate professional development activities within this part with professional development activities provided under other Federal, State, and local programs, including those authorized under—

“(A) title I, part A of this title, part 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 the activities to be carried out by the State educational agency under this subpart will be developed collaboratively based on the input of teachers, principals, 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 Secretary under section 2142(a)(1) so that all teachers in the State who are teaching core academic subjects in public elementary 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 assists and monitors 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 2121.

(11) In the case of a State that has a charter school law that exempts teachers from State certification or licensing requirements, a description of the basis for the exemption.

(12) An assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers).

(c) APPROVAL.—The Secretary shall approve a State application submitted to the Secretary under this section only if 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 5 percent of the funds made available through the grant for State activities described in subsection (b); and

(2) reserve 3 percent of the funds to make subgrants to local educational agencies as described in subpart 3 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 this subpart shall—

(1) use the funds reserved under subsection (a)(1) to carry out 1 or more of the following activities, including through a grant to or contract with a for-profit or nonprofit entity—

(A) Reforming teacher certification (including recertification) or licensing requirements to ensure that—

(1) all teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(2) the requirements are aligned with challenging State content standards; and

(3) the teachers have the subject matter knowledge and teaching skills, including technology literacy, that are necessary to effectively implement local educational agency’s academic improvement activities;

(B) Teacher preparation 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 are willing to teach in the teaching fields and grades specified by the local educational agency;

(C) programs that provide teacher preparation, including programs that lead to a teaching license, to support the preparation of teachers to teach in a subject or grade for which no qualified teachers are available; and

(D) team teaching, reduced schedules, and intensive professional development.

(2) other activities, including—

(A) programs that provide teacher mentoring, including peer networks.

(B) programs that make use of technology to provide professional development, including through Internet-based distance education and peer networks.

(3) programs that support the retention of qualified teachers during the initial teaching experience, such as programs that provide teacher mentoring, including peer networks.

(4) Fulfilling the State’s responsibilities concerning proper and efficient administration of the program carried out under this part.

(5) Ensuring that the program is reviewed annually by an independent third party and is modified as necessary.

(6) Ensuring that the program is reviewed annually by an independent third party and is modified as necessary.

(7) Ensuring that the program is reviewed annually by an independent third party and is modified as necessary.

(8) Ensuring that the program is reviewed annually by an independent third party and is modified as necessary.

(9) Ensuring that the program is reviewed annually by an independent third party and is modified as necessary.

(10) Reforming tenure systems.

(11) Reforming teacher certification (including recertification) needs of teachers, principals, and administrative personnel.

(12) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals, and in cases in which a State deems appropriate, to provide teacher mentoring.

(13) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals, including recruiting specialists in core academic subjects.

(14) Programs that promote reciprocity of teacher certification or licensure between or among States.

(15) Programs that ensure that—

(A) every student has access to a teacher who is qualified to teach all of the classes that the students are assigned to teach;

(B) programs that provide teacher mentoring, including peer networks.

(C) programs that make use of technology to provide professional development, including through Internet-based distance education and peer networks.

(D) programs that support the retention of qualified teachers during the initial teaching experience, such as programs that provide teacher mentoring, including peer networks.

(E) programs that are reviewed annually by an independent third party and are modified as necessary.

(F) programs that are reviewed annually by an independent third party and are modified as necessary.

(G) programs that are reviewed annually by an independent third party and are modified as necessary.

(H) programs that are reviewed annually by an independent third party and are modified as necessary.

(I) programs that are reviewed annually by an independent third party and are modified as necessary.

(J) programs that are reviewed annually by an independent third party and are modified as necessary.

(K) programs that are reviewed annually by an independent third party and are modified as necessary.

(L) programs that are reviewed annually by an independent third party and are modified as necessary.

(M) programs that are reviewed annually by an independent third party and are modified as necessary.

(N) programs that are reviewed annually by an independent third party and are modified as necessary.

(O) programs that are reviewed annually by an independent third party and are modified as necessary.

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(Q) programs that are reviewed annually by an independent third party and are modified as necessary.

(R) programs that are reviewed annually by an independent third party and are modified as necessary.

(S) programs that are reviewed annually by an independent third party and are modified as necessary.

(T) programs that are reviewed annually by an independent third party and are modified as necessary.

(U) programs that are reviewed annually by an independent third party and are modified as necessary.

(V) programs that are reviewed annually by an independent third party and are modified as necessary.

(W) programs that are reviewed annually by an independent third party and are modified as necessary.

(X) programs that are reviewed annually by an independent third party and are modified as necessary.

(Y) programs that are reviewed annually by an independent third party and are modified as necessary.

(Z) programs that are reviewed annually by an independent third party and are modified as necessary.

(aa) The Secretary shall provide a list of the activities carried out by the local educational agency to the State, as so determined; and

(bb) An amount that bears the same relationship to 80 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 subpart shall include the following:

(1) A description of the activities to be carried out by local educational agencies under this subpart and how these activities will be aligned with—

(A) State content standards, performance standards, and assessments; and

(B) the curricula and programs tied to the standards described in clause (i). The 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.

(C) 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.

(2) An assurance that the local educational agencies 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.

(3) A description of how the local educational agencies will coordinate professional development activities authorized under this subpart with professional development activities provided under other Federal, State, and local programs, including—is—

(1) a title I, part C of this title, part A of title III, and title IV; and

(2) 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.

(4) A description of how the local educational agency will ensure that professional development (including teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

(5) A description of how the local educational agency will ensure that the professional development (including teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

(6) A description of the professional development (including teacher mentoring) activities to be made available to teachers under this subpart.

(7) A description of the professional development (including teacher mentoring) activities to be made available to teachers under this subpart.

(8) A description of the professional development (including teacher mentoring) activities to be made available to teachers under this subpart.

(9) A description of how the local educational agency will ensure that the professional development (including teacher mentoring) needs of teachers and principals will be met using funds under this subpart.
(10) A description of local performance objectives established under section 2124(a)(2).

(11) A description of how the local educational agency will provide training to enable teachers and administrators to—

(A) address the needs of students with disabilities, students with limited English proficiency, and other students with special needs;

(B) involve parents in their child's education;

(C) understand and use data and assessments to improve classroom practice and student learning.

(12) An assurance that the local educational agency will comply with section 6 (regarding participation by private school children and teachers).

(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. 2125. LOCAL USE OF FUNDS.

(a) GENERAL 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 121(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, including through a grant or contract with a for-profit or nonprofit entity:

(1) Providing professional development activities that involve subject matter knowledge of teachers and principals concerning—

(A) 1 or more of the core academic subjects that the teachers and principals teach;

(B) instructional strategies, methodologies, and skills for improving student academic achievement and student performance, including strategies to implement a year-round school schedule that will allow the local educational agency to increase pay for veteran teachers;

(C) effective use of State content standards, student performance standards, and assessments to improve instructional practices and improve student achievement and student performance;

(D) effective integration of technology into curricula and instruction to enhance the learning environment and improve student academic achievement, performance, and technology literacy;

(E) ability to collect, manage, and analyze data, including through use of technology, to inform teaching;

(F) effective instructional practices that involve collaborative groups of teachers and administrators to ensure that—

(i) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

(ii) consultation with exemplary teachers;

(iii) team teaching, peer observation, and coaching;

(iv) provision of short-term and long-term visits to classrooms and schools;

(v) establishment and maintenance of local professional development networks that provide for opportunities among teachers and administrators about content knowledge and teaching and leadership skills; and

(vi) the provision of release time as needed for the activities;

(G) teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master career teacher paths) and pay differentiation.

(2) Teacher mentoring.

(3) Providing professional principals, and, in cases in which a local education agency deems appropriate, pupil services personnel with opportunities for professional development through instructional higher education, other for-profit or nonprofit entities, and through distance 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 professional-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 special education teachers to team-teach in classrooms that contain both children with disabilities and non-disabled children, and may include recruiting and hiring high performing teachers to work in small class size), and teachers of special needs children, who are highly qualified as well as teaching specialists in core academic subjects who will progressively increase individualized instruction to students served by the local educational agency participating in the eligible partnership.

(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.

(7) Carrying out programs and activities related to master teachers:

(A) MASTER TEACHER.—The term 'master teacher' means a teacher who—

(i) is licensed and certified under State law in the subject or grade in which the teacher teaches;

(ii) has been teaching for at least 5 years in a public or private school or institution of higher education;

(iii) 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;

(iv) at the time of submission of such application, is teaching and based in a public school;

(v) assists in recruiting other teachers in improving instructional strategies, improves the skills of other teachers, performs mentoring, develops curriculum, and offers other professional development; and

(vi) 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.

(8) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals, and, in cases in which a local education agency deems appropriate, pupil services personnel.

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 2111(g)(2) 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—

(i) such subgrants are equitably distributed by geographic area within a State; or

(ii) eligible partnerships in rural 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. 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, including the use of computer related technology to enhance student learning;

(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;

(B) may include intensive programs designed to provide initial preparation or advanced level training to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

(C) may include activities carried out jointly with education councils and professional development schools, involving partnerships described in paragraphs (1) and (3) of subsection (c), respectively, for the purpose of improving teaching and learning at low-performing schools.

(b) STUDY AND REPORT.—(1) In GENERAL.—Not later than July 1, 2005, the Secretary shall conduct a study and transmit a report to Congress pertaining to the utilization of funds under section 2123 for master teachers.

(2) CONTENTS OF REPORT.—The report shall include—

(I) an analysis of—

(aa) the recruitment and retention of experienced teachers;

(bb) the effect of master teachers on teaching by less experienced teachers;

(cc) the impact of mentoring new teachers by master teachers;

(dd) the impact of master teachers on student achievement; and

(EE) the reduction in the rate of attrition of beginning teachers; and

(ii) recommendations regarding establishing activities to expand the project to additional local educational agencies and school districts.

(c) DEVELOPMENT AND IMPLEMENTATION OF MECHANISMS.—An eligible partnership shall effectively recruiting and retaining highly qualified teachers and principals, and, in cases in which a local education agency deems appropriate, pupil services personnel.

Subpart 2—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 2111(g)(2) 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—

(i) such subgrants are equitably distributed by geographic area within a State; or

(ii) eligible partnerships in rural 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. 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, including the use of computer related technology to enhance student learning;

(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;

(B) may include intensive programs designed to provide initial preparation or advanced level training to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

(C) may include activities carried out jointly with education councils and professional development schools, involving partnerships described in paragraphs (1) and (3) of subsection (c), respectively, for the purpose of improving teaching and learning at low-performing schools.
Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 203.

(c) DEFINITIONS.—In this section:

(1) EDUCATION COUNCIL.—The term ‘education council’ means a partnership that—

(A) is established between—

(i) 1 or more local educational agencies, acting on behalf of elementary schools or secondary schools served by the agencies; and

(ii) 1 or more institutions of higher education, including community colleges, that meet the requirements applicable to the institutions under section 1116(c).

(2) PROFESSIONAL DEVELOPMENT.—The term ‘professional development’ means a partnership that—

(A) is established between—

(i) 1 or more local educational agencies, acting on behalf of elementary schools or secondary schools served by the agencies; and

(ii) 1 or more institutions of higher education, including community colleges, that meet the requirements applicable to the institutions under title II of the Higher Education Act of 1965, and

(B) provides professional development to teachers to ensure that the teachers are prepared and meet high standards for teaching, particularly by educating and preparing prospective teachers in a classroom setting and enhancing the knowledge of in-service teachers while improving the education of the classroom students.

(3) LOW-PERFORMING SCHOOL.—The term ‘low-performing school’ means an elementary school or secondary school that is identified for school improvement under section 1116(c).

(4) DEVELOPMENT SCHOOL.—The term ‘professional development school’ means a partnership that—

(A) is established between—

(i) 1 or more local educational agencies, acting on behalf of elementary schools or secondary schools served by the agencies; and

(ii) 1 or more institutions of higher education, including community colleges, that meet the requirements applicable to the institutions under title II of the Higher Education Act of 1965; and

(B) provides sustained and high quality preservice clinical experience, including the mentoring of prospective teachers by veteran teachers;

(C) substantially increases interaction between faculty at institutions of higher education described in subparagraph (A) and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools; and

(D) provides support, including preparation time, for such interaction.

SEC. 2141. DEFINITION. —

“In this subpart, the term ‘eligibility partnership’ means an entity that—

(1) shall include—

(A) the State educational agency without assistance—

(i) a significant number of teachers has received professional development under subsection (d) of section 2141(b); and

(ii) 1 or more institutions of higher education; and

(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.

SEC. 2141. STATE PERFORMANCE OBJECTIVES AND ACCOUNTABILITY. —

(a) REQUIRED ACTIVITIES.—Each State educational agency receiving a grant under this part shall—

(1) establish and submit measurable performance objectives, with respect to teachers teaching in the State, that, at a minimum—

(A) 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 to 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

(2) 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 subsection (a), the requirements of subsection (a) shall not apply to teachers in charter schools 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), the 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 regard 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 progress to the State no later than the end of the fourth year for which the State receives funds under this part.

(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 section 2141(b).

(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 fiscal year for which such funds are received.

(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 fiscal 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 retaining 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 the local educational agencies in the State an annual measurable performance objective for improving the knowledge of in-service teachers while improving the education of the classroom students.

(2) LOW-PERFORMING SCHOOL.—The term ‘low-performing school’ means an elementary school or secondary school that is identified for school improvement under section 1116(c).

(3) DEVELOPMENT SCHOOL.—The term ‘professional development school’ means a partnership that—

(A) is established between—

(i) 1 or more local educational agencies, acting on behalf of elementary schools or secondary schools served by the agencies; and

(ii) 1 or more institutions of higher education, including community colleges, that meet the requirements applicable to the institutions under title II of the Higher Education Act of 1965; and

(B) provides sustained and high quality preservice clinical experience, including the mentoring of prospective teachers by veteran teachers;

(C) substantially increases interaction between faculty at institutions of higher education described in subparagraph (A) and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools; and

(D) provides support, including preparation time, for such interaction.

(b) REPORTS.—Each local educational agency receiving a grant under this part shall—

(1) annually prepare and submit to the Secretary an annual measurable performance objective for increasing teacher retention among teachers in the first 3 years of their teaching careers; and

(2) may establish other annual measurable performance objectives.

(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 described in subsection (a).

(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 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 described in subsection (a).

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 from 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 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. 2144. AGENDA.
schools, in which not less than 50 percent of the students qualify for free or reduced price lunches, shall be eligible to receive funds awarded under this subsection.

"(2) any significant obstacles that States face in improving teacher quality, 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 the teachers are needed, or in which the teachers are absent, 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. Russel National School Lunch Act (42 U.S.C. 1751 et seq.), are highly qualified.

"Part 5—National Programs

SEC. 2151. PROGRAMS OF DEMONSTRATED EFFECTIVENESS.

"(a) In General.—The Secretary shall use funds made available under section 2153(b) to carry out each of the following activities described in subsections (c) through (d):

"(b) School Leadership.—

"(1) DEFINITIONS.—

"(A) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency for which more than 30 percent of the students qualify for free or reduced price lunches under the school lunch program established under the Richard B. Russel National School Lunch Act (42 U.S.C. 1751 et seq.), are highly qualified.

"(B) POVERTY LINE.—The term 'poverty line' means the official poverty line as defined in 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.

"(C) STUDENT IN POVERTY.—The term 'student in poverty' means a student from a family with an income below the poverty line.

"(D) PROGRAM.—The Secretary shall establish and carry out a national principal recruitment program.

"(E) GRANTS.—

"(1) In General.—In carrying out the program, the Secretary shall make grants, on a competitive basis, to high-need local educational agencies that seek to recruit and train principals (including assistant principals).

"(2) USE OF FUNDS.—An agency that receives a grant under subparagraph (A) may use the funds made available through the grant to carry out principal recruitment and training activities that may include—

"(i) providing stipends for master principals who mentor new principals;

"(ii) using funds innovatively to recruit new principals, including recruiting the principals by providing pay incentives or bonuses;

"(iii) developing career mentorship and professional development ladders for teachers who want to become principals; and

"(iv) developing alternative routes and professional development and instructional leadership training programs, to attract individuals from other fields, including business and law, to serve as principals.

"(F) APPLICATION AND PLAN.—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include—

"(i) a needs assessment concerning the shortage of qualified principals in the school district involved and an assessment of the potential for recruiting and retaining prospective and aspiring leaders, including teachers who are interested in becoming principals; and

"(ii) a correction plan for recruitment and training of principals, including plans for mentorship programs, ongoing professional development, and instructional leadership training, for high-need local educational agencies.

"(D) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to local educational agencies that demonstrate that the agencies will carry out activities described in subparagraph (B) in partnership with nonprofit organizations and institutions of higher education.

"(E) SUPPLEMENT NOT SUPPLANT.—Funds appropriated to carry out this subsection shall be used to supplement and not supplant other Federal, State, and local funds expended to provide principal recruitment and retention activities.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $50,000,000 for fiscal year 2002 and each subsequent fiscal year.

"(5) 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 the high-need local educational agencies in the States that are using funds under this subsection to improve 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 support the 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.

"(3) TRANSITION TO TEACHING.—The Secretary shall provide assistance for activities to support the development and implementation of national or regional programs to—

"(A) 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

"(B) help retain the professionals as classroom teachers serving the local educational agencies for more than 3 years.

"(G) CARING CLASSROOMS.—

"(1) PURPOSES.—The purposes of this subsection are—

"(A) to establish a program to recruit and retain highly qualified mid-career professionals, recent graduates from an institution of higher education, and certain paraprofessionals, as teachers in high need schools, including recruiting teachers through alternative routes to certification; and

"(B) to encourage the development and expansion of alternative routes to certification under which high-need local educational agencies that have high teacher turnover rate, or is located in an area in which there is a high percentage of students from families with incomes below the poverty line; and

"(ii) is located in an area in which there is a high percentage of students from families with incomes below the poverty line; and

"(ii) is located in an area in which there is a high percentage of students from families with incomes below the poverty line.

"(H) HIGH NEED SCHOOL DISTRICT.—The term 'high need school district' means a school district in which there is—

"(i) a high need school district; and

"(ii) a high need school.

"(C) HIGH NEED SCHOOL.—The term 'high need school' means a school that—

"(i) has been working as a paraprofessional in an instructional role in an elementary school or secondary school for at least 2 years;

"(ii) can demonstrate that the paraprofessional is capable of completing a bachelor's degree in not more than 2 years and is in the top 50 percent of the individual's undergraduate class;

"(III) will work toward completion of an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the paraprofessional will teach; and

"(iv) can demonstrate a high level of competence through a high level of performance in the academic subject that the paraprofessional will teach.

"(B) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term 'high need local educational agency' means a local educational agency that serves—

"(i) a high need school district; and

"(ii) a high need school.

"(D) HIGH NEED SCHOOL DISTRICT.—The term 'high need school district' means a school district in which there is—

"(i) a high need school; and

"(ii) a high percentage of individuals from families with incomes below the poverty line; and

"(ii) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach, is within the top quartile of schools statewide, as ranked by the number of unfulfilled, available teacher positions at the school; or is located in an area other than a metropolitan statistical area, that the State determines has a high percentage of students from families with incomes below the poverty line; and

"the high need school district' means a school district in which there is—

"(i) a high need school; and

"(ii) a high percentage of individuals from families with incomes below the poverty line; and

"(ii) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach, is within the top quartile of schools statewide, as ranked by the number of unfulfilled, available teacher positions at the school; or is located in an area other than a metropolitan statistical area, that the State determines has a high percentage of students from families with incomes below the poverty line; and

"(E) POVERTY LINE.—The term 'poverty line' means the official 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.

"(F) GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a program to make grants on a competitive basis to State educational agencies, regional consortia of State educational agencies, high need local educational agencies, and consortia of high need local educational agencies, to develop and implement programs to expand, enhance teacher recruitment and retention efforts.
“(B) PRIORITY.—In making such a grant, the Secretary shall give priority to an agency or consortium of agencies that applies for the grant in collaboration with an institution of higher education, and a paraprofessional organization that has a proven record of effectively recruiting and retaining highly qualified teachers in high need school districts.

(4) APPLICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an agency or consortium described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) CONTENTS.—The application shall—

(i) describe how the agency or consortium will use funds received under this subsection to develop a teacher corps or other program to recruit and retain highly qualified mid-career professionals, recent graduates from an institution of higher education, and paraprofessionals as teachers in high need schools;

(ii) estimate the activities carried out with the funds with activities carried out with other Federal, State, and local funds for teacher recruitment and retention; and

(iii) describe how the agency or consortium will determine that teacher candidates seeking to participate in a program under this section are eligible participants;

(iii) explain how the program will meet the relevant State laws (including regulations) related to teacher certification and licensing;

(iv) describe how the agency or consortium will ensure that no paraprofessional will be hired through the program as a teacher until the paraprofessional has obtained a bachelor’s degree and meets the requirements of subclauses (II) through (V) of paragraph (2)(A)(ii);

(v) include a determination of the high need academic subjects in the jurisdiction served by the agency or consortium and how the agency or consortium will recruit teachers for those subjects;

(vi) describe how the grant will increase the number of highly qualified teachers in high need schools in high need school districts that are urban or rural school districts;

(vii) describe the plan of the agency or consortium described in paragraph (3) has met the requirements of subparagraph (C);

(viii) describe how the agency or consortium will carry out and report on the activities carried out with the funds with activities carried out with other Federal, State, and local funds for teacher recruitment and retention; and

(ix) describe how the agency or consortium will carry out and report on the activities carried out with the funds with activities carried out with other Federal, State, and local funds for teacher recruitment and retention.

(5) DURATION OF GRANTS.—The Secretary may make grants under this subsection for periods of 5 years. At the end of the 5-year period for such a grant, the recipient may apply for an additional grant under this subsection.

(6) EQUITABLE DISTRIBUTION.—The Secretary shall provide for the equitable and geographic distribution of grants among the regions of the United States.

(7) REQUIREMENTS.—

(A) TARGETING.—An agency or consortium that receives a grant under this subsection to carry out a program shall ensure that participants in the program recruited with funds made available under this subsection are placed in high need schools, within high need school districts. In placing the participants in the schools, the agency or consortium shall ensure that the students in the schools that are located in areas with the highest percentage of students from families with incomes below the poverty line.

(B) SUSTAINABILITY NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement and not supplant State and local public funds expended for teacher recruitment and retention, including programs to recruit the teachers through alternative routes to certification.

(C) PARTNERSHIPS ESTABLISHED BY LOCAL EDUCATIONAL AGENCIES.—In the case of a partnership established by a local educational agency or a consortium of such agencies to carry out a program under this section, the local educational agency or consortium shall not be eligible to receive funds through a State program under this subsection.

(D) SPECIFIC ACTIVITIES.—The agency or consortium shall use the funds to carry out a teacher corps or other program that includes 2 or more activities, including—

(i) providing loans, scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have a proven effect in retaining teachers in high need school districts, to all eligible participants (in an amount of not more than the lesser of $5,000 per eligible participant) who—

(aa) are enrolled in a program under this section located in a State; and

(bb) agree to seek certification through alternative routes to teacher certification;

(ii) the recipient rejects a bona fide offer of employment at a high need school served by that agency or consortium during the 1-year period beginning on the date on which the recipient completes such a program;

(iii) providing mentoring;

(iv) providing in-service training;

(v) providing an improvement in working conditions, including teacher credentialing and teacher retention programs;

(vi) providing accelerated paraprofessional-to-teacher programs that provide a paraprofessional with sufficient training and development to enable the paraprofessional to complete a bachelor’s degree and fulfill other State certification or licensing requirements and that provides for the payment and leave from full-time employment at a high need school served by the agency or consortium of the paraprofessional’s full compensation for periods of not more than 3 years, if necessary, to complete such credentials or licensures; and

(vii) offering opportunities for teacher credentialing and teaching.

(8) USE OF FUNDS.—

(A) IN GENERAL.—An agency or consortium that receives a grant under this subsection shall use the funds made available through the grant for the purposes described in paragraph (7)(A) and shall use more than 5 percent of the funds made available through the grant for the purposes described in paragraph (7)(B).

(B) PRIORITY.—In making such a grant, the Secretary shall give priority to an agency or consortium that has a proven record of effectively recruiting and retaining highly qualified teachers through alternative routes to certification.

(C) DEVELOPMENT OF LONG-TERM RECRUITMENT AND RETENTION STRATEGIES.—In addition to any requirements contained in paragraph (B), an agency or consortium that receives a grant under this subsection may use the funds made available through the grant for—

(i) the establishment or expansion, or expansion and improvement, of a statewide or regionwide clearinghouse for the recruitment and placement of preschool, elementary school, secondary school, and vocational and technical school teachers (which shall not be subject to the targeting requirements under paragraph (7)(A));

(ii) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to certification;

(iii) the development of reciprocity agreements between or among States for the certification or licensure of teachers; and

(iv) the implementation of other activities designed to ensure the use of alternative routes to teacher recruitment and retention strategies.

(D) EFFECTIVE ACTIVITIES.—The agency or consortium shall use the funds only for activities that have proven effective in both recruiting and retaining teachers.

(9) REPAYMENT.—The recipient of a loan under this subsection shall repay to the agency or consortium from which the loan, scholarship, stipend, bonus, or other financial incentive under this subsection shall repay amounts received under such loan, and the recipient of a scholarship, stipend, bonus, or other financial incentive to which the recipient is entitled after the completion of the recipient’s duties for the period necessary to complete the program.

(A) The recipient involved fails to complete the applicable program providing alternative routes to certification;

(B) the recipient rejects a bona fide offer of employment at a high need school served by that agency or consortium during the 1-year period beginning on the date on which the recipient completes such a program;

(C) the recipient fails to teach for at least 2 years in a high need school served by that agency or consortium during the 5-year period beginning on the date on which the individual completes such a program.

(10) ADMINISTRATIVE FUNDS.—No agency or consortium that receives a grant under this subsection shall use more than 5 percent of the funds made available through the grant for the administration of a program under this section carried out under the grant.

(11) EVALUATION AND ACCOUNTABILITY FOR RECRUITING AND RETAINING TEACHERS.—

(A) EVALUATION.—Each agency or consortium that receives a grant under this subsection shall conduct—

(i) an interim evaluation of the program funded under the grant at the end of the third year of the grant period; and

(ii) a final evaluation of the program at the end of the fifth year of the grant period.

(B) CONTENTS.—In conducting the evaluation, the agency or consortium shall describe the extent to which local educational agencies that received funds through the grant have met those goals relating to teacher recruitment and retention described in the applicable grant.

(C) REPORTS.—The agency or consortium shall prepare and submit to the Secretary and to
Congress interim and final reports containing the results of the interim and final evaluations, respectively.

(1) RELOCATION.—If the Secretary determines that the relocation of a grant under this subsection has not made substantial progress in meeting the goals and objectives of the grant by the end of the third year of the grant period, the Secretary—

(i) shall revoke the payment made for the fourth year of the grant period; and

(ii) does not make payment for the fifth year of the grant period.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated annually for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

(3) NATIONAL TEACHER RECRUITMENT CAMPAIGN.—

(a) GRANT.—The Secretary shall award a grant, on a competitive basis, to a 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).

(b) USE OF FUNDS.—A coalition that receives a grant under paragraph (1) shall use amounts made available under the grant to conduct a national campaign to recruit and retain future teachers and to ensure that potential teachers have 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.

(c) APPLICATION.—To be eligible to receive a grant under this subsection, a coalition shall prepare a proposal for the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 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 to share information and resources and 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;

(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;

(5) improve and expand training of math and science teachers, including in the effective integration of technology into curricula and instruction.

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) an agency, mathematics or science department of an institution of higher education; and

(iii) a local educational agency; and

(B) may include—

(i) another engineering, 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 or high-impact public coalition composed of leaders from business, kindergarten through grade 12 education, institutions of higher education, and public policy organizations.

(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,

(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;

(iii) if the program is for teachers in rural school districts, may be conducted through distance education under section 2215.

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 partnership to carry 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.—

(A) IN GENERAL.—The Federal share of the costs of the activities assisted under this subpart shall be—

(i) 75 percent of the costs for the first year of an eligible partnership receives a grant payment under this subpart;

(ii) 65 percent of the costs for the second and any subsequent years;

and

(C) 50 percent of the costs for each of the third, fourth, and fifth years.

(2) NON-FEDERAL SHARE.—The non-Federal share of the costs may be provided in cash or in kind, fairly evaluated.

(3) PROVISION OF AWARDING GRANTS.—In awarding grants under this subpart the Secretary shall give priority to partnerships that—

(A) are partnerships that are formed by high need local educational agencies or a consortium of local educational agencies that include a high need local educational agency;

(B) are partnerships that include—

(i) persons who have demonstrated effectiveness in recruiting individuals with academic majors in mathematics and science, respectively, to teaching in mathematics and science curricula;

(ii) persons who have demonstrated effectiveness in recruiting individuals with academic majors in mathematics or science, respectively, to teaching in mathematics or science curricula;

(iii) a business that—

(A) is engaged in teaching and training that is related to the science, technology, engineering, or mathematics fields; and

(B) 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;

(iii) if the program is for teachers in rural school districts, may be conducted through distance education under section 2215.

Subpart 2—Requirements

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

(5) NATIONAL TEACHER RECRUITMENT CAMPAIGN.—

(a) GRANT.—The Secretary shall award a grant, on a competitive basis, to a 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).

(b) USE OF FUNDS.—A coalition that receives a grant under paragraph (1) shall use amounts made available under the grant to conduct a national campaign to recruit and retain future teachers and to ensure that potential teachers have 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.

(c) APPLICATION.—To be eligible to receive a grant under this subsection, a coalition shall prepare a proposal for the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years.

(6) APPLICATION REQUIREMENTS.

SEC. 2212. APPLICATION REQUIREMENTS.

(a) IN GENERAL.—Each eligible partnership desiring a grant under this subpart shall submit an application to the Secretary at a specified time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—Each such application shall include—

(1) the results of a comprehensive 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, and such assessment may not be consecutive, but not be limited to, data that accurately represents—

(A) the participation of students in advanced courses in mathematics and science;

(B) the percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science, respectively;

(C) the number and percentage of mathematics and science teachers who participate in content-based professional development activities; and

(D) the extent to which elementary teachers have the necessary content knowledge to teach 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 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;

(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; and

(5) a description of how the State educational agency and local educational agency in the eligible partnership will comply with section 6 (regarding participation by private school children and teachers).

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 courses 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岗by qualified and ongoing professional development that improves the subject matter knowledge of mathematics and science teachers;

(3) Recruiting mathematics and science majors to teaching through the use of—

(A) recruiting individuals with demonstrated professional experience in mathematics or science through the use of signing incentives and performance incentives for mathematics and science teachers as long as those incentives are linked to activities proven effective in retaining teachers;

(B) stipends to mathematics teachers and science teachers for certification through alternate routes;

(C) scholarships for teachers to pursue advanced course work in mathematics or science; and

(D) carrying out any other program that the State believes to be effective in recruiting into and retaining individuals with strong mathematics or science backgrounds in the teaching force;

(4) Promoting strong teaching skills for mathematics and science teachers and teacher educators, including integrating reliable scientifically based research teaching methods and technology-based teaching methods into the curriculum;
“(5) Establishing mathematics and science summer workshops or institutes (including follow-up 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 university 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 involved.

“(8) Designing programs to bring teachers into contact with working engineers and scientists.

“(9) Designing programs to identify and develop mathematics and science master teachers in the kindergarten through grade 8 classrooms.

“(10) Performing a statewide systemic needs assessment of mathematics, science, and technology education, analyzing the assessment, developing a strategic plan based on the assessment and its analysis, and engaging in activities to implement the strategic plan consistent with the authorized activities in this section.

“(11) Establishing a mastery incentive system for elementary school or secondary school mathematics and science classrooms under which—

“(1) experienced mathematics or science teachers who are licensed or certified to teach in the State their mathematics or science knowledge and teaching expertise through objective means such as an advanced examination or professional evaluation of teaching performance and classroom skill including a professional video;

“(B) incentives shall be awarded to teachers making the demonstration described in subparagraph (A);

“(C) priority for such incentives shall be provided to teachers who teach in high need and local educational agencies; and

“(D) the partnership shall devise a plan to ensure that recipients of incentives under this paragraph remain in the teaching profession.

“(12) Training teachers and developing programs to encourage girls and young women to pursue postsecondary degrees and careers in mathematics and science, including engineering and technology.

**SEC. 2214. EVALUATION AND ACCOUNTABILITY PLAN.**

“Each eligible partnership receiving a grant under this subpart shall develop an evaluation and accountability plan for activities carried out under this subpart that includes strong performance objectives. The plan shall include objectives of measurability 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 subsection (b).

“(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 met—

“(2) DURATION.—The grant or contract awarded under paragraph (1) shall be awarded for a period of 5 years.

“(b) 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 for—

“(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools;

“(B) compile information on all mathematics and science education instructional materials and programs administered by each Federal agency or department;

“(C) disseminate instructional materials, programs, and information to the public and disseminate information on the availability of model engineering, science, technology, and mathematics teacher mentoring programs;

“(D) coordinate activities with entities operating identification systems of 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 National Science Foundation, national education 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 evaluations, except that nothing in this subparagraph shall be construed to permit the Clearinghouse to directly conduct an evaluation of the materials or programs;

“(iii) distribute to teachers, in an easily accessible manner, the results of the reviews (in a short, standardized, and electronic format that contains a copy or 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;

“(G) develop and establish an Internet-based site offering a clearinghouse database to assist site visitors in identifying information available through the Clearinghouse on engineering, science, technology, and mathematics education instructional materials; and

“(1) a mechanism to assist site visitors in identifying information available through the Clearinghouse on engineering, science, technology, and mathematics education instructional materials, 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 text books;

“(2) at least 1 State educational agency or local educational agency to which the Secretary shall submit the Clearinghouse copies of such materials or programs;

“(3) SPRING.—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.

“(a) GRANT OR CONTRACT.—

“(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 for—

“(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools;

“(B) develop or redesign teacher preparation programs under which—

“(i) prospective teachers to use advanced technology to pursue postsecondary degrees and careers in mathematics and science, including engineering and technology;

“(C) maintain a permanent repository of mathematics and science education instructional materials and programs, including full text and graphics, for the Clearinghouse;

“(D) gather qualitative and evaluative data on submissions to the Clearinghouse;

“(E) solicit and gather (in consultation with the National Science Foundation, national education 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;

“(F)(i) solicit and gather (in consultation with the National Science Foundation, national education 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 evaluations, except that nothing in this subparagraph shall be construed to permit the Clearinghouse to directly conduct an evaluation of the materials or programs;

“(iii) distribute to teachers, in an easily accessible manner, the results of the reviews (in a short, standardized, and electronic format that contains a copy or 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;

“(G) develop and establish an Internet-based site offering a clearinghouse database to assist site visitors in identifying information available through the Clearinghouse on engineering, science, technology, and mathematics education instructional materials; and

“(1) a mechanism to assist site visitors in identifying information available through the Clearinghouse on engineering, science, technology, and mathematics education instructional materials, 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 text books;

“(2) at least 1 State educational agency or local educational agency to which the Secretary shall submit the Clearinghouse copies of such materials or programs;

“(3) SPRING.—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.

“(a) ELIGIBLE APPLICANTS.—(A) allow the Secretary to award grants, contracts, or cooperative agreements under this subpart for a period of not more than 5 years.

**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, and to improve the ability of institutions of higher education to carry out such programs.

“(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 among the following—

“(1) an 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;

“(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 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) ALLOTMENT.—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 both 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 experienced educational disadvantages, to meet challenging State and local content and student performance standards and to improve the ability of at least 1 participating institution of higher education as described in section 2232(a)(1) to ensure such preparation;

"(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 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 build on Federal funds that 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 be no less than 25 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) 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. 2303. 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 teachers to use advanced technology to help teaching faculty and students using curriculum and instruction in order to build 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 curriculum and instruction in order to expand students' knowledge;

"(C) evaluate educational technologies and their potential for use in instruction;

"(D) help students develop their technical skills; and

"(E) use technology to collect, manage, and analyze data to inform their teaching and decision-making processes;

"(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 222(c)(2), acquiring technology equipment, networking capabilities, infrastructure and software and digital curriculum to (A) provide elementary schools and secondary schools with the technology infrastructure and software and digital curriculum required to meet challenging State and local content and student performance standards and to improve the ability of at least 1 participating institution of higher education as described in section 2232(a)(1) to participate in such preparation; and (B) ensure that every child is technologically literate by the time the child finishes higher education as described in section 2102).

"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, geographic location, or disability. It shall be a further goal of this part to encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based methods that can be widely implemented into best practices by State and local educational agencies.

"SEC. 2302. DEFINITIONS.

"In this part—

"(1) ADULT EDUCATION.—The term 'adult education' has the meaning given the term in section 3132 of the Adult Education Act (20 U.S.C. 120a(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 other educators.

"(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 term ‘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 203(12) of the Communications Act of 1934 (47 U.S.C. 397(12)).

"(7) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means 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(1) of the Library Services and Technology Act (20 U.S.C. 9122(5)).

"SEC. 2303. ALLOTMENT AND REALLOTMENT.

"(a) LIMITATION.—

"(1) IN GENERAL.—From funds appropriated under this part, the Secretary shall reserve such sums as may be necessary for grants awarded under section 3136 and teacher training in technology under section 3122 prior to the date of enactment of the Better Education for Students and Teacher Act.

"(2) BUREAU OF INDIAN AFFAIRS FUNDED SCHOOLS.—From funds appropriated under this part, the Secretary shall reserve 0.75 percent of such funds for Bureau of Indian Affairs funded schools. Not later than 6 months after the date of enactment of the Better Education for Students and Teacher Act, the Secretary of the Interior shall establish rules for distributing such funds in accordance with a formula developed by the Secretary of the Interior in consultation with school boards of Bureau of Indian Affairs funded schools taking into consideration whether a minimum amount is needed to ensure small schools can utilize funding effectively.

"(6) 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 3132 for such year as the amount such educational agency received for any fiscal year prior to such year bears to the amount received for such year under part such year under part by all States.

"(2) MINIMUM.—Notwithstanding any other provision of law, each 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 3132 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 shall be reallocated among the 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 in such year.

"(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallocated among the State educational agencies in proportion to the original allotments to each such agency, and any sums so re-allocated. Any amounts reallocated to a State educational agency under this subsection during a school year shall be deemed a subpart of such agency's student subpart under section 3132 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 a grant made under section 2305. The Secretary shall give priority when awarding grants under this paragraph to State educational agencies whose applications submitted under section 2303 outline a strategy to carry out part E.

“(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, 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 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 and have a demonstrated need for assistance in acquiring and integrating technology.

(D) DISTRIBUTION.—In awarding the grants, each State educational agency shall assure that, of the amount awarded by each State under section 2305, the State educational agency will carry out the purposes of this part, including—

(1) ensuring that the local educational agencies served by the State educational agency that—

(A) have the highest number or percentage of children in poverty; and

(B) are located in a State that—

(i) contains an assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers); and

(ii) provides assurance that financial assistance provided under this part will be integrated into the curriculum, assignments, and assessments; and

(C) technology resources and systems for the purpose of establishing best practices that can be widely implemented by the State and local educational agencies.

SEC. 2306. LOCAL USES OF FUNDS.

“(A) IN GENERAL.—Each local educational agency, to be eligible, shall use the funds made available under section 2304(a)(2), for—

(1) acquiring, adapting, expanding, implementing, and evaluating new and new applications of technology, to support the school reform effort, improve student academic achievement, performance, and technology literacy;

(2) providing additional (or continuing) support for the integration in the 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, academic counselors, and school library media personnel in the classroom, in academic and community centers, and 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, educational programming sources and professional development, particularly with institutions of higher education and public libraries;

(5) providing educational services for adults and families;

(6) repairing and maintaining school technology equipment;

(7) acquiring, expanding, and implementing technology to collect, manage, and analyze data, including assessment data, to inform teaching, decision-making, and school improvement efforts, including the training of teachers and administrators;

(8) using technology to promote parent and family involvement and support communications between parents, teachers, and students; and

(9) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and community centers, and in school library media centers, in order to improve student academic achievement and student performance;

(10) a description of how the local educational agency will comply with section 6 (regarding participation by private school children and teachers); and

(11) a description of how the activities to be supported under this part will be integrated into the school curriculum and will affect technology literacy, student academic achievement, and teaching; and

(12) a description of the type of technologies to be acquired, including services, software, and digital curricula, including specific provisions for portability and compatibility among components of such technologies;

(13) 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;

(14) the projected cost of technologies to be acquired and related expenses needed to implement the plan;

(15) a description of how the local educational agency will comply with section 6 (regarding participation by private school children and teachers); and

(16) a description of the evaluation plan that the local educational agency will carry out pursuant to section 2304(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 agencies, 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 agencies, libraries, or other appropriate educational entities to provide services for the benefit of children in poverty and demonstrate the greatest need for assistance in acquiring and integrating technology.
“(c) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education technology 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 section.

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 the performance objectives and other measures concerning—

(1) increased professional development and increased effective use of technology in educating students;
(2) increased technology literacy;
(3) increased access to technology in the classroom, especially in low-income schools; and
(4) other indicators reflecting increased student academic achievement or student performance, as a result of technology.

“(b) REPORT.—Each local educational agency receiving funds 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 agency toward achieving the purposes of this part and meeting the performance objectives and measures described in this section.

SEC. 2309. NATIONAL EVALUATION OF TECHNOLOGY PLANS.

“Not later than 36 months after the date of enactment of this title, the Secretary, in consultation with other Federal departments or agencies, State and local educational practitioners, including principals, superintendents, and experts in technology and the application of technology to education, shall report to Congress on best practices for the implementation of technology effectiveness.

SEC. 2310. 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 for the implementation of technology to improve the instructional achievement of all students.

“(b) USE OF FUNDS.—In carrying out the program established under subsection (a), the Secretary shall—

(1) conduct, through the Office of Educational Research and Improvement, in consultation with the Office of Educational Technology, an independent, longitudinal study on—

(A) the conditions and practices under which educational technology is effective in increasing student academic achievement; and

(B) the conditions and practices that increase the ability of teachers to effectively integrate technology into the curricula and instruction, enhance the learning environment and opportunities, and increase student performance, technology literacy, and related 21st century skills;

(2) make widely available, including through dissemination on the Internet and to all State educational agencies and other grantees under this section, the findings identified through the activities of this section regarding the conditions and practices under which education technology is effective.

SEC. 2312. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $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.

“(c) FUNDING FOR NATIONAL TECHNOLOGY INITIATIVES.—Not more than 5 percent of the funds appropriated under subsection (a) may be used for the activities of the Secretary under section 2311.

SEC. 2302. TEACHER MOBILITY.

“(a) SHORT TITLE.—This section may be cited as the ‘Teacher Mobility.’

“(b) MOBILITY OF TEACHERS.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.), as amended by section 201, is further amended by adding at the end the following:

“PART D—TEACHER MOBILITY

“SEC. 2401. NATIONAL PANEL ON TEACHER MOBILITY.

“(a) ESTABLISHMENT.—There is established a panel to be known as the National Panel on Teacher Mobility (referred to in this section as the ‘panel’).

“(b) MEMBERSHIP.—The panel shall be composed of 9 members appointed by the Secretary.

“(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.—

“(A) IN GENERAL.—The panel shall study strategies for increasing mobility and employment opportunities for high quality teachers, especially for States with teacher shortages and States with districts or schools that are difficult to staff.

“(B) DATA AND ANALYSIS.—As part of the study, the panel shall evaluate the desirability and feasibility of State initiatives that support teacher mobility by collecting data and conducting effective analysis on—

(i) teacher supply and demand;

(ii) the development of recruitment and hiring strategies that support teachers; and
(iii) increasing reciprocity of licenses across 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.

(c) 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 request 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.

(4) PERSONNEL.—

(a) 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 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 3132 of title 31, United States Code, the panel may accept the voluntary and uncompensated services of members of the panel.

(b) 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 is 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 authority contained in this subsection shall remain available without fiscal year limitation, until expended.

SEC. 203. MODIFICATION OF TROOPS-TO-TEACHERS PROGRAM.

(a) PURPOSE.—The purpose of this section 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 XVI of the National Defense Authorization Act for Fiscal Year 2000).

(b) DEFINITIONS.—Section 1701 of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “means” and all that follows and inserting “means the Secretary of Education’’;

(B) by striking paragraph (2);

(C) by redesigning paragraphs (3) and (4), as paragraphs (2) and (3), respectively; and

(D) in paragraph (2) (as so redesignated), by inserting after the period the following: “and active and former members of the Coast Guard’’; and

(2) by adding at the end the following:

“(c) ADMINISTRATION.—To the extent that funds are made available under this title, the administering Secretary shall use such funds to enter into a memorandum of agreement with the Defense Activity for Non-Traditional Education Support (referred to in this subsection as ‘‘DANTES’’). The Department of Defense, DANTES shall use amounts made available under the memorandum of agreement to administer the Troops-to-Teachers Program, including the selection of participants in the Program in accordance with section 1704. The administering Secretary may retain a portion of the funds to identify regional 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 1707.

(d) AUTHORIZATION.—Section 1702 of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9302) is amended—

(1) in subsection (a) —

(A) by striking “(1) Subject” and inserting “Subject”;

(B) by striking paragraph (2); and

(2) in subsection (b) —

(A) by striking paragraph (2); and

(B) by striking paragraph (3) (as redesignated), by inserting after the period the following: “and active and former members of the Coast Guard’’; and

(c) STIPENDS AND BONUSES.—Section 1705 of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9305) is amended—

(1) in subsection (a)—

(A) by striking “(1) Subject” and inserting “Subject”; and

(B) by striking paragraph (2); and

(2) in subsection (b) —

(A) by striking paragraph (2); and

(B) by striking paragraph (3) (as redesignated), by inserting after the period the following:

“(c) A UTCORIZATION.—Section 1703 of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9303) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) ELIGIBLE MEMBERS.—Subject to subsection (c), any member of the Armed Forces who, during the period beginning on October 1, 2000, and ending on September 30, 2002, served on active duty or who is a member of the active reserve of the Armed Forces may participate in the Troops-to-Teachers Program.’’;

(2) in subsection (d)—

(A) by striking “(1) The administering Secretary’’ and inserting “Secretary of Defense’’;

(B) by striking paragraph (2); and

(c) by adding at the end the following:

“(e) PLACEMENT ASSISTANCE AND REFERRAL SERVICES.—The Secretary, with the agreement of the Secretary of Defense, shall provide placement assistance and referral services to members of the Armed Forces who separated from active service under honorable discharge, to members of the Coast Guard who, during the period beginning on October 1, 2000, and ending on September 30, 2002, served on active duty or who is a member of the active reserve or the Coast Guard may waive the three school years with a local educational agency, or with teacher shortages and States with alternative certification or licensure requirements, as required by section 1707.

(2) available for the delivery of courses through distance education methods.

(b) APPLICATION PROCEDURES.—

(1) IN GENERAL.—An institution of higher education, or a consortia of such institutions, that desires to enter into a memorandum under subsection (a) shall prepare and submit to the administering Secretary a proposal, at such time, in such manner, and containing such information as the administering Secretary may require, including an assurance that the institution is operating one or more programs that lead to State approved teacher certification.

(2) EFFECTIVE PERIOD.—The administering Secretary shall give a preference to institutions (or consortia) submitting proposals that provide for cost sharing with respect to the program involved.

(c) CONTINUATION OF PROGRAM.—An institution of higher education that desires to continue a program that is funded under this section after such funding is terminated shall use amounts derived from tuition charges to continue such program.

SEC. 1708. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $50,000,000 in fiscal year 2002, and such sums as may be necessary in each subsequent fiscal year.
(1) in clause (i), by striking “and” at the end; (2) in clause (ii)(V), by adding “and” after the semicolon; and (3) by adding at the end the following: “(iii) the provision of incentives, including bonus payments, to recognized educators who achieve an information technology certification that is directly related to the curriculum content area in which the teacher provides instruction.”.

SEC. 205. CLOSE UP FELLOWSHIP PROGRAM AND NATIONAL STUDENT/PARENT MOCK ELECTION.

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), as amended by section 2002, is further amended by adding at the end the following:

“PART E—CLOSE UP FELLOWSHIP PROGRAM

SEC. 2501. FINDINGS.

Congress makes the following findings:

“(1) The strength of our democracy rests with the willingness of our citizens to be active participants in their governance. For young people to be such active participants, it is essential that they develop a strong sense of responsibility toward ensuring the common good and general welfare of their local communities, States, and the Nation.

“(2) For the young people of our country to develop a sense of responsibility for their fellow citizens, communities and country, our education system must assist them in the development of strong moral character and values.

“(3) Civic education about our Federal Government is an integral component in the process of educating young people to be active and productive citizens who contribute to strengthening and promoting our democratic form of government.

“(4) There are enormous pressures on teachers to develop creative ways to stimulate the development of strong moral character and appropriate value systems among young people, and to educate young people about their responsibilities and rights as citizens.

“(5) Young people who have economically disadvantaged backgrounds, or who are from other under-served constituencies, have a special need for educational programs that develop a strong sense of community and educate them about their rights and responsibilities as citizens of the United States. Under-served constituencies include those such as economically disadvantaged young people in large metropolitan areas, ethnic minority students; and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students; and (2) the proper disbursement of the funds received under this subpart.

Subpart 2—Program for Middle and Secondary School Teachers

SEC. 2521. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

(2) that every effort shall be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students; and (2) the proper disbursement of the funds received under this subpart.

Subpart 3—Program for New Americans

SEC. 2531. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

(1) that no teacher in each school participating in the programs provided for in section 2521(a) may receive more than one fellowship in any fiscal year; and

(2) the proper disbursement of the funds received under this subpart.

SEC. 2532. APPLICATIONS.

(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) CONTENT OF APPLICATION.—Each such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged secondary school students;

(2) that every effort shall be made to ensure the participation of recent immigrant students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students; and (2) the proper disbursement of the funds received under this subpart.

Subpart 4—General Provisions

SEC. 2541. ADMINISTRATIVE PROVISIONS.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

(1) that fellowship grants are made to economically disadvantaged secondary school students;

(2) that every effort shall be made to ensure the participation of recent immigrant students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students; and (2) the proper disbursement of the funds received under this subpart.

SEC. 2542. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $6,000,000 for fiscal year 2002 and such sums as may be necessary for each of the four succeeding fiscal years.

(1) that fellowship grants are made to economically disadvantaged young people who reside in our Nation’s large metropolitan areas.

Subpart 1—Program for Middle and Secondary School Students

SEC. 2511. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

SEC. 2501. FINDINGS.

SEC. 2502. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the National Student/Parent Mock Election, a national nonprofit, nonpartisan organization that works to promote voter participation in American elections to enable it to carry out voter education activities for the purpose of this subpart, the term ‘recent immigrant student’ means a student of a family that immigrated to the United States within five years of the students participation in the programs described in section (a). Financial assistance received pursuant to this subpart by such students shall be known as the Close Up Fellowships.

SEC. 2532. APPLICATIONS.

(1) that fellowship grants are made to economically disadvantaged students;

(2) that every effort shall be made to ensure the participation of recent immigrant students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students; and (2) the proper disbursement of the funds received under this subpart.

Subpart 2—Program for Middle and Secondary School Teachers

SEC. 2521. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

SEC. 2531. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

SEC. 2502. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

SEC. 2501. FINDINGS.

SEC. 2502. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

SEC. 2531. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.

SEC. 2501. FINDINGS.

SEC. 2502. ESTABLISHMENT.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs under the subpart.
students and their parents. Such activities may—

(1) include simulated national elections at least five days before the actual election that permit participation by students and parents from all 50 States in the United States and its territories, Washington, D.C. and American schools overseas; and

(2) include—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an 'issues forum';

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz teams, mock press conferences and speech writing competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

(b) REQUIREMENT.—The National Student Parent Mock Election shall present awards for outstanding student and parent mock election projects.

SEC. 2002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this part $650,000 for fiscal year 2002 and such sums as may be necessary for each of the six succeeding fiscal years.

SEC. 2006. RURAL TECHNOLOGY EDUCATION ACADEMIES AND EARLY CHILDHOOD EDUCATOR PROFESSIONAL DEVELOPMENT.

Title II (20 U.S.C. 6601 et seq.), as amended by section 202, is further amended by adding at the end the following:

PART G—RURAL TECHNOLOGY EDUCATION ACADEMIES

SEC. 2701. SHORT TITLE.

This part may be cited as the ‘Rural Technology Education Academies Act’.

SEC. 2702. FINDINGS AND PURPOSE.

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

(1) Rural areas offer technology programs in existing public schools, such as those in career and technical education programs, but they are limited in numbers and are not adequately funded. Further, rural areas often cannot support specialized schools, such as magnet or charter schools.

(2) Technology can offer rural students educational and employment opportunities that they otherwise would not have.

(3) Schools in rural and small towns receive disproportionately less funding than their urban counterparts, necessitating that such schools receive additional assistance to implement technology curriculum.

(4) In the future, workers without technical skills will run the risk of being excluded from the new global, technological economy.

(5) Teaching technology in rural schools is vitally important because it creates an employee pool for employers sorely in need of information technology specialists.

(6) A qualified workforce can attract information technology employers to rural areas and help bridge the digital divide between rural and urban American that is evidenced by the out-migration and economic decline typical of many rural areas.

(b) PURPOSE.—It is the purpose of this part to give rural schools comprehensive assistance to train the technology literate workforce needed to bridge the rural-urban digital divide.

SEC. 2703. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary shall use amounts made available under section 2312(a) to carry out this part to make grants to eligible States for the development and implementation of technology curriculum.

(b) STATE ELIGIBILITY.—

(1) IN GENERAL.—To be eligible for a grant under subsection (a), a State shall—

(A) have in place a statewide educational technology plan developed in consultation with the State's educational management and information technology programs under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

(B) include—

(i) eligible local educational agencies (as defined in paragraph (2) under the plan);

(ii) DEFINITION.—In this part, the term 'eligible local educational agency' means a local educational agency—

(A) with less than 600 total students in average daily attendance at the schools served by such agency; and

(B) with respect to which all of the schools served by the agency have a SchoolLocale Code of 7 or 8, as defined by the Secretary.

(2) USE OF AMOUNTS.—

(1) IN GENERAL.—A State that receives a grant under subsection (a) shall use—

(A) not less than 85 percent of the amounts received under the grant to provide funds to eligible local educational agencies in the State to serve the agency who are from families with incomes below 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) AMOUNT OF ASSISTANCE.—In providing assistance to eligible local educational agencies under this section, a State may, at its discretion, reduce the amount that provided to any eligible agency reflects the size and financial need of the agency as evidenced by the number or percentage of children served by the agency who are suspected to be victims of physical abuse and neglect, and children living in poverty.

(c) GRANTS TO PARTNERSHIPS.—The Secretary shall carry out the purpose of this part to award grants to partnerships for the purposes of subparagraphs (A) through (F) of—

(1) TO PARTNERSHIPS.—Any partnership described in paragraph (2) that—

(A) are organized in order to provide educational technology services to eligible local educational agencies;

(B) consist of—

(I) eligible local educational agencies;

(ii) State educational agencies, State education authorities or other entities that are authorized to provide such educational services; and

(iii) other entities that are authorized to provide such educational services; and

(C) for which the Secretary may use not to exceed 5 percent of the amounts received under the grant to carry out activities to develop or enhance and further the implementation of technology curriculum, including—

(i) the development or enhancement of technology courses in areas including computer network technology, computer engineering technology, computer design and repair, software engineering, and programming;

(ii) the development or enhancement of high quality technology standards;

(iii) the examination of the utility of web-based technology courses, including college-level courses and instruction for both students and teachers;

(iv) the development or enhancement of State advisory councils on technology teacher training;

(v) the addition of high-quality technology courses to teacher certification programs;

(vi) the provision of financial resources and incentives to eligible local educational agencies to enable such agencies to implement a technology curriculum;

(vii) the implementation of a centralized web-site for educators to exchange computer-related curriculum and lesson plans; and

(viii) the provision of technical assistance to local educational agencies;

(2) LOCAL INFORMATION FUNDS.—Amounts received by an eligible local educational agency under paragraph (1) shall be used for—

(A) the implementation of a technology curriculum that is based on standards developed by the State, if applicable;

(B) professional development in the area of technology, including the certification of teachers in information technology;

(C) teacher-to-teacher technology mentoring programs;

(D) the provision of incentives to teachers teaching in technology-related fields to persuade such teachers to remain in rural areas; and

(E) the purchase of equipment needed to implement technology courses.

(f) DURATION AND NUMBER OF GRANTS.—

(1) DURATION.—Each grant under this part shall be awarded for not more than 4 years.

(2) NUMBER.—No partnership may receive more than 1 grant under this part.

SEC. 2803. APPLICATIONS.

(a) APPLICATIONS REQUIRED.—Any partnership that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.
(b) CONTENTS.—Each such application shall include—
(1) a description of the high-need community to be served by the project, including such de-
notation and socioeconomic information as the Secretary may request;
(2) information on the quality of the early childhood educator professional development pro-
drogram currently conducted by the institution of higher education or other provider in the
partnership;
(3) the results of the needs assessment that the entities in the partnership have undertaken
to determine the most critical professional develop-
ment needs of the early childhood educators to be
trained by the partnership and the broader commu-
nity, and a description of how the proposed project will address those needs;
(4) a description of how the proposed project will be sustained, excluding—
(A) how individuals will be selected to partici-
(p) ways in which the proposed project will be sustained, as described in subparagraphs (C)
and (D); and
(B) the types of research-based professional develop-
ment activities that will be carried out;
(5) a description of—
(A) how research on effective professional develop-
ment and on adult learning will be used to
design and deliver project activities;
(B) how the project will coordinate with and
build on, and will not supplant or duplicate,
early childhood education professional develop-
ment activities in the community;
(C) how the project will train early child-
hood educators to provide services that are
based on developmentally appropriate practices and
to design and deliver research on child social,
emotional, physical and cognitive development and
on early childhood pedagogy;
(D) how the program will train early child-
hood educators to identify and prevent behav-
ioral problems in children or working with children identified or suspected to be
victims of abuse;
(6) activities that assist and support early childhood educators during their first three
years in the field;
(7) development and implementation of early childhood educator professional development
programs that make use of distance learning and other technologies;
(8) professional development activities rel-
ated to the selection and use of screening and
diagnostic assessments to improve teaching and
learning; and
(9) data collection, evaluation, and reporting
measured to meet the requirements of this part re-
tating to accountability.
SEC. 2806. ACCOUNTABILITY.
(a) PERFORMANCE INDICATORS.—Simulta-
aneously with the publication of any application
notice for grants under this part, the Secretary
shall announce performance indicators for this
part, which shall be designed to measure—
(1) the quality and accessibility of the pro-
fessional development provided;
(2) the impact of that professional develop-
ment on the early childhood education provided
by the individuals who are trained; and
(3) such other measures of program impact as
the Secretary determines appropriate.
(b) ANNUAL REPORTS. TERMINATION.—
(1) ANNUAL REPORTS.—Each partnership re-
ceiving a grant under this part shall report an-
ually to the Secretary on the partnership’s pro-
gress against performance indicators.
(2) TERMINATION.—The Secretary may ter-
nimate a grant under this part at any time if the
Secretary determines that the partnership is not
making satisfactory progress against the indica-
tors.
SEC. 2807. COST-SHARING.
(a) IN GENERAL.—Each partnership shall pro-
vide, from other sources, which may include other
Federal sources—
(1) at least 50 percent of the total cost of its
project for the grant period; and
(2) at least 20 percent of the project cost in
each year.
(b) ACCEPTABLE CONTRIBUTIONS.—A partner-
ship may meet the requirement of subsection (a)
through cash or in-kind contributions, fairly
valued.
(c) WAIVERS.—The Secretary may waive or
modify the requirements of subsection (a) in cases
of demonstrated financial hardship.
SEC. 2808. DEFINITIONS.
In this part—
(1) HIGH-NEED COMMUNITY.—The term ‘high-need
community’ means—
(i) a municipality, or a portion of a muni-
icipality, in which at least 50 percent of the chil-
dren are from low-income families; or
(ii) a municipality that is one of the 10 per-
cent of municipalities within the State having
the greatest proportion of children in
neighborhoods where families have
incomes below the poverty line; or
(iii) an elementary or secondary school prin-
cipal in schools.
(2) LOW-INCOME FAMILY.—The term ‘low-in-
come family’ means a family with an income below
the poverty line as defined by the Office of
Management and Budget and updated annu-
ally in accordance with section 673(2) of the
Consolidated Omnibus Budget Reconciliation Act (42 U.S.C.
9002(2)) applicable to a family of the size in-
volved for the most recent fiscal year for which
satisfactory data are available.
(3) EARLY CHILDHOOD EDUCATOR.—The term
‘early childhood educator’ means an individual
providing or employed by a provider of non-residen-
tial child care services (including center-based,
family-based, and in-home child care services) that
is legally operating under State law, and that
complies with applicable State and local re-
quirements for the provision of child care serv-
ices to children at any age from birth through
kindergarten.
SEC. 2809. FEDERAL COORDINATION.
(a) IN GENERAL.—The Secretary and the Secretary of Health
and Human Services shall coordinate activities
under this part and other early childhood pro-
grams administered by the two Secretaries.
SEC. 2810. AUTHORIZATION OF APPROPRIA-
TIONS.
(a) IN GENERAL.—For the purpose of carrying out this part,
there are authorized to be appropriated $30,000,000 for fiscal year 2002 and such sums as
may be necessary for each of the 6 succeeding
fiscal years.
SEC. 2811. TEACHERS AND PRINCIPALS.
(a) IN GENERAL.—Each partnership shall provide
training and support for—
(i) at least 20 percent of the project cost being
carried out under the project; and
(ii) for the professional development provide-
ded under the project for the grant period;
(b)鐘日IN GENERAL.—Each partnership shall provide
professional development for individuals working as early childhood educators, particu-
larly how to use the application of recent research on child, lan-
guage, and literacy development and on early childhood pedagogy;
(c) Build on and develop for early childhood educators in working with parents, based on
the best current research on child social, emotional, physical and cognitive development and the
needs of the diverse educational needs of children in the community, including
(iii) children who have limited English proficiency, disabilities, and
(ii) children with other special needs;
(d) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(e) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(f) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(g) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(h) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(i) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(j) Build on and develop for early childhood educators in identifying and pre-
venting behavioral problems in children or working with children identified or suspected to be
victims of abuse;
(I) by inserting "(i)" after "(A)";
(II) by adding "and" after the semicolon; and
(III) by adding at the end the following:
"(ii) principals have the instructional leadership skills to help teachers teach and students learn;";
and
(iii) in subparagraph (C), by inserting "and principals have the instructional leadership skills, before "necessary";
(B) in paragraph (2), by striking "the initial teaching experience" and inserting "an initial experience as a teacher, principal, or an assistant principal;"
(C) in paragraph (3)—
(i) by striking "of teachers" and inserting "of teachers or principals;"
(ii) by striking "degree, and" and inserting "or master’s degree;" and
(iii) by striking "teachers," and inserting "teachers or principals;" and
(D) in paragraph (7), by striking "teacher and" and inserting "teacher and principal;" and
in section 2122(c)(2)—
(A) by striking "and, where appropriate, administrators," and
(B) by inserting "and to give principals and assistant principals the instructional leadership skills to help teach," after "skills;"
(I) in section 2123(b)—
(A) in paragraph (2), by inserting "and principal" before "mentoring;"
(B) in paragraph (4), by striking the period and inserting "nonprofit organizations, local educational agencies, or consortia of appropriate educational entities;" and
(C) in paragraph (8)—
(i) by striking "teachers" and inserting "teachers, principals, and assistant principals;" and
(ii) by striking "teaching" and inserting "employment as teachers, principals, or assistant principals, respectively;"
(D) in section 2133(a)(9)...
(E) in section 2133(a)(10)...
(F) in section 2133(a)(11)...
(G) in section 2133(a)(12)...
(H) in section 2134—
(i) by inserting "a principal organization," after "teacher organization,"; and
(ii) by striking "degree" and inserting "or paraprofessionals;" and
(I) by striking the semicolon and inserting the following: "and principals and assistant principals have the instructional leadership skills that will help such principals and assistant principals work most effectively with teachers to help students master core academic subjects;";
and
in section 2324—
(A) in paragraph (1), by striking "teachers" and inserting "teachers, principals, and assistant principals;" and
(B) in paragraph (2)—
(i) by striking "teachers" and inserting "teachers, principals, and assistant principals;" and
(ii) by inserting "a principal organization," after "teacher organization,"; and
in section 2421(a)(2), by striking subparagraph (A) and inserting the following: "A shall establish for the local educational agency an annual measurable performance objective for increasing retention of teachers, principals, and assistant principals in the first 3 years of their careers as teachers, principals, and assistant principals respectively; and";
TITLE III—MOVING LIMITED ENGLISH PROFICIENT STUDENTS TO ENGLISH PROFICIENCY
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. 301. SHORT TITLE.
'This part may be cited as the 'Bilingual Education Act'.
SEC. 302. 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 reorganization of 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 American students to meet unique Federal standards relating 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 SEC. 4. PROGRAM ENHANCEMENT PROJECTS.
"(a) ELIGIBLE ENTITIES.—
"(1) IN GENERAL.—For the purpose of carrying out programs under this part for Indian children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander nation, or a public entity or agency whose mission is the preservation, development to classroom teachers, administrators, and
(paragraph (9), in section 2133(a)...
"(4) providing similar assistance to Native American students served by activities carried out under this section may be used for—
"(A) assisting parents to become active participants in their children’s education;";
and
"(B) 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 enhance 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 students; 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;
and
"(iii) implementing family education programs and parent outreach 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 produced by local educational agencies), and assessment materials that are all aligned with State and local standards;

(v) providing intensified instruction, including tutoring, 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;

(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 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) ANNUAL REPORT.—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 participants of State- and local-level programs 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, train, and assess personnel trained to serve limited English proficient students;

(E) implementing culturally and linguistically appropriate family education programs, for parents of limited English proficient students, that are designed to assist parents to become active participants in the education of their children;

(F) coordinating programs 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;

(I) 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 help limited English proficient students 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 limited English proficient students, in coordination with programs carried out under this title; and

(F) developing 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 English as a second language services, such as gifted and talented, vocational education, and other education programs (other than programs designed to address limited English proficiency), such as gifted and talented, vocational education, and other education programs.

(h) developing and implementing programs to help all students become proficient in more than one language; and

(i) 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 10 days. The applicant 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) 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 effective date of enactment of the No Child Left Behind Education Act for Students and Teachers Act); and

(ii) for which the grant period has not ended.

(2) 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.

(3) 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 described in subparagraph (A)(i).

(4) AVAILABILITY.—Of the amount appropriated for a fiscal year under section 3003 that is not reserved under paragraph (1) or reserved under paragraph (2) and that remains after the Secretary reserves funds for payments under paragraph (1) —

(A) not less than 1/2 of the remainder shall be used to award grants for activities carried out within an entire school district; and

(B) not less than 1/2 of the remainder shall be used to award grants for activities carried out within an individual school.

(5) 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 contain such information as the Secretary may require.

(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity under this section to the State educational agency.

(3) STATE REVIEW AND COMMENTS.—

(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application submitted under this section, shall review the application and submit the written comments of the agency to the Secretary.

(4) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

(5) COMMENT CONSIDERATION.—In making grants under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

(6) 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.

(b) 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;

(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

(1) the native languages of the students;

(2) the proficiency of the students in English and their native language;

(3) the data (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;

(3) 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 are coordinated with 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 provided 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 experience and commitment to 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 expends for bilingual education or special alternative education programs and has limited or no experience in serving limited English proficient students.

(E) An assurance that the applicant will employ teachers and proposed program staff, individually or in combination, who are proficient in—

(i) English, with respect to written, as well as oral, communication skills; and

(ii) language groups 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) identify current services (as of the date of submission of the application) the applicant provides to children and youth of limited English proficiency;

(B) state what services children and youth of limited English proficiency will receive under the grant that such children or youth will not otherwise receive;

(C) explain 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;

(D) provide for the peak achievement and school retention goals of children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

(E) provide for the integrated family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

(F) propose—

(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.

(3) APPROVAL OF APPLICATIONS.—An application and any supporting material may be approved only if the Secretary determines that—

(A) the program proposed in the application will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

(B) in designing the program, the eligible entity has, after consultation with appropriate personnel of the school or school district, where the eligible entity is located, determined the number and location of children and the number and location of English proficient students;

(C) the programs that the applicant has in place or is proposing to implement will meet the requirements of section 3105.

(4) CONTENTS.—

(a) PRIORITIES AND SPECIAL RULES.—

(1) The recipient of Federal funds shall use the following criteria in determining which programs and applicants to fund:—

(A) the need for bilingual and special alternative education programs and services to children and youth of limited English proficiency to the extent available under this subpart—

(i) shall be used by the grant recipient—

(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children;

(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;

(C) to determine program effectiveness,

(D) to determine the extent to which children with limited English proficiency are served through the program in accordance with the requirements of the Individuals with Disabilities Education Act;

(E) Federal funds made available for the program shall 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 proficiency and Native American children, 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—

(i) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

(ii) to ensure that such children serve Native American children (including Native American Pacific Islander children) and children in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and Northern Mariana Islands served by the proposed program who, in combination, meet the following requirements:

(A) the program proposed in the application will provide for the integration of Native American children (including Native American Pacific Islander children), and

(B) the eligible entity will use the data provided in the evaluation, in the form prescribed by the Secretary, to determine program effectiveness.

(2) DUE CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give due consideration to the 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 report to the Secretary and 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, the Virgin Islands, American Samoa, Guam, and Northern Mariana Islands served by the proposed program who, in combination, meet the following requirements:

(A) to the extent possible, describes how credit at an institution of higher education will be awarded for such training.

(SEC. 3107. EVALUATIONS.

(a) EVALUATION.—Each recipient of funds under this subpart for the year or years covered by 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 shall 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.

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 performance of students who are not served by the program; and including data comparing limited English proficient student 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 to which professional development activities carried out through the program have resulted in improved classroom practices and improved student performance; and

(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. 3112. AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and evaluation 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 research dissemination, and evaluation program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

SEC. 3113. REQUIREMENTS.

(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; and

(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 the Office of Bilingual Education and second language acquisition, and English-as-a-second-language) a common definition of ‘limited English proficient student’ for purposes of nation-wide accountability; 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 grants under such subpart 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 subpart 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 provide for the coordination 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, 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.

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 public and nonprofit entities whose programs have—

(1) demonstrated significant progress in assisting limited English proficient students to meet 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 grants 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 for the grant provided in 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, and 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 the development of bilingual educational programs; and

(B) assist local educational agencies in the State with the development of bilingual educational programs; and

(ii) 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

(iii) are aligned with State reform efforts; and

(b) are consistent with the Secretary’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.

(4) 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 and 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 practicable, to increase, in the absence of such Federal funds, would be made available for the purposes described in this section, and 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;

(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 Navajo, Shoshone, and Dakota Indian languages); and

(2) in the language of native tongues of the American Indian and Alaska Native population;

(3) in the language of Native American groups in the United States for which instructional materials are not readily available.

(b) 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.
"(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 other than English to meet the needs of the United States or the educating 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 into limited English proficient programs to prepare such programs to provide effective services to limited English proficient students.

(b) AUTHORIZATION.—

(1) AUTHORITY.—The Secretary may award grants under this section to—

(A) one or more 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) activities to develop an induction program for new teachers, including programs that provide mentoring and coaching by trained teachers, and team teaching with experienced teachers;

(B) activities to implement collaborative efforts among teachers to improve instruction in core academic subjects, including reading, for students of limited English proficiency;

(C) coordinating activities with entities carrying out other programs, such as 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) providing 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.

(b) AUTHORIZATION.—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 personnel 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) preserve and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or proposed to be involved in, the provision of educational services for children and youth of limited English proficiency; and

(2) national professional development institutes that offer professional development of educators 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 FOR PROFESSIONAL DEVELOPMENT 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 activities or projects to provide enhanced inservice professional development of educators in 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 education 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 under this section 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 to—

(1) 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 programs; and

(2) to support the costs of internships or other professional development associated with this program.

(d) SPECIAL CONSIDERATION.—In awarding the grants, the Secretary shall give special consideration to an applicant proposing a program that provides assistance to—

(1) participants 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) programs to assist the Federal TRIO programs under chapter 1 of part 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 education teachers; 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 3134.

(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 that is 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 or professional associations that demonstrate experience in assisting fellowship recipients to find employment in the field of bilingual education.

SEC. 3136. APPLICATION.

(a) IN GENERAL.—

(b) APPLICATION.—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.

(c) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of the extent to which the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited English proficiency that the program is designed to assist, and the design of the program for which funds are sought.

(d) PRIORITY.—

(1) AUTHORIZATION.—An eligible entity who proposes to conduct a master's- or doctoral-level program with funds received under this section 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.

(2) WAIVER.—In awarding grants to an entity under this subpart for a program may waive an otherwise applicable threshold that a program participant 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 expectation 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) whether the application is consistent with the State plan required under section III.

“(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that express 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 requirements specified in subsection (a) if a State educational agency can demonstrate that such review requirement may impede such agency’s ability to fulfill the requirements of participation in a 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 that are or become eligible for assistance under such Act and at the request of the Secretary, to assist eligible local educational agencies that are or have been eligible for assistance under such Act and are otherwise qualified.

“(2) FEDERAL SHARE.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that—

“(A) address the comments submitted by the State educational agency;

“(B) submit to the Secretary written comments regarding all such applications; and

“(C) 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 such program.

SEC. 3139. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.

“Awards under this subpart may be used to develop or improve proficiency in a foreign language for use in instructional programs.

PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

SEC. 3200. FOREIGN LANGUAGE INCENTIVE PROGRAM.

“This part may be cited as the ‘Foreign Language Assistance Act of 1994’.

SEC. 3202. PROGRAM AUTHORIZED.

“(a) PROGRAM AUTHORITY.—

“(1) SUBJECT.—In general, the Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to carry out plans to improve English language proficiency of limited English proficient students.

“(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that—

“(A) make effective use of technology, such as computer-assisted instruction, learning laboratories, or distance learning, to promote foreign language learning in the State;

“(B) the effectiveness of the program in imparting the professional skills necessary for participants to achieve the objectives of the program; and

“(C) the teaching effectiveness of graduates of the program or other participants who have completed such program.

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 5 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 the Nation’s children and youth is of the most sacred governmental responsibilities;

“(2) local educational agencies have struggled to fund adequately education services for children and youth whose immigration status is not known;

“(3) the Secretary, in the case of Plyler v. Doe, 457 U.S. 202 (1982), has held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status;

“(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 except for immigration status would have the resources to fund adequately education services for children and youth who are limited English proficient; and

“(c) ELIGIBLE ENTITY.—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.

“(d) 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. 3304. 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 a 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. 3305. 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 5 succeeding fiscal years, to carry out this part, of which not more than $50,000,000 may be used in each fiscal year to carry out section 3304.

SEC. 3306. EMERGENCY IMMIGRANT EDUCATION PROGRAM.
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, and until the Secretary satisfactorily determines 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. Payments and agreements 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 allocations of funds for each fiscal year to local educational agencies for each of the fiscal years 2002 through 2008 for the purpose set forth in section 3301. (b) ALLOCATIONS.—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 such educational agencies to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—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 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 provided to the Secretary under this section for any period with respect to the number of immigrant children and youth counted with respect to each local educational agency under section 3304(b)(1).

(d) REALLOCATION.—Whenever the Secretary determines that any area of 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 approved under subparagraph (A) is less than $300,000,000 for a fiscal year, a State educational agency may reserve no more than 20 percent of such agency's payment under this part for such fiscal year to award grants on a competitive basis, to local educational agencies within the State as follows:

(A) AGENCIES WITH IMMIGRANT CHILDREN AND YOUTH.—Funds reserved under this subparagraph (A) may 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 IMMIGRANT CHILDREN AND YOUTH.—Funds reserved under this subparagraph (B) shall be used to provide assistance under this part to educational agencies in which the sum of the number of immigrant children and youth enrolled in nonpublic elementary schools or secondary schools is at least 3 percent of the total number of students enrolled in such schools within the district served by such educational agency.

(f) USE OF FUNDS.—Funds received under this part shall be used to provide assistance under this part to—

(A) AGENCIES WITH IMMIGRANT CHILDREN AND YOUTH.—Funds reserved under this paragraph (1) may make information available on immigrant children and youth receiving funds under paragraph (1) and 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 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 meet such purposes and will coordinate with other programs assisted under this Act, and other Acts as appropriate;

(3) provide assurances 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; and

(4) provide 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 numbers of such children and youth counted with respect to each such local educational agency under section 3304(b)(1); and

(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 a 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 nonpublic elementary schools or secondary schools within the districts 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;

(8) that the control of funds provided under this part shall be provided by persons of the public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such public agency or to 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; and

(g) 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. 3305. STATE APPLICATIONS.**

(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 3303 for the succeeding fiscal 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 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) the services of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(3) culturally relevant, 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 related to the Secretary shall allot grants to local school districts of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition of property, 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 desires to participate under this part shall 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 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, 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 information as may be necessary for such report.

(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 2 years, a report to 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) increase 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, consistent with this part; and

(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 under section 1111(b)(1); and

(3) to provide the assistance described in paragraphs (1) and (2) by—

(A) streamlining language instruction educational programs 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 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 scientifically based research, that the agencies believe to be the most effective for teaching English.

SEC. 3322. DEFINITIONS.

(a) General.

"(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 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 where a student comes from an environment where a language other than English is dominant;

(ii) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(D) 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, who comes from an environment where a language other than English is dominant; and

(D) who has sufficient difficulty speaking, reading, and writing 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); and

(ii) the opportunity to learn successfully in classes 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) SPONTINALLY QUALIFIED AGENCY.—The term 'spontially 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.

"(10) PROGRAM AUTHORIZED.—The Secretary shall award grants, from allotments under subpart (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.

"(11) RESERVATIONS AND ALLOTMENTS.—

(A) 5⁄10 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) 5⁄10 of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with the Secretary for the purpose of determining the number of immigrant children and youth in the State bears to the number of such students in all States.

(C) 5⁄10 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 sum as may be necessary for making continuation awards under paragraph (4).

"(12) STATE ALLOTMENTS.—

A State shall allot grants, from allotments under subpart (b), from the amount appropriated under subpart (b) for each fiscal year, the Secretary shall reserve—

(A) 1⁄2 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) 5⁄10 of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with the Secretary for the purpose of determining the number of immigrant children and youth in the State bears to the number of such students in all States.

(C) 5⁄10 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 sum as may be necessary for making continuation awards under paragraph (4).

"(13) MINIMUM ALLOTMENTS.—No State shall receive an allotment under this paragraph that is less than 1⁄2 of 1 percent of the amount available under this paragraph for payments to outlying areas.

(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 are accurate, and for any 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 the 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 under the Act in the preceding fiscal year, or

(ii) subsidiaries 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) subsidiaries 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 paragraphs.

(5) CONTINUATION 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 a grant from an allocation made under section 3323(b)(2) to carry out State activities described in the State plan submitted under section 3325.

(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) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State or specially qualified agency under this part for the preceding fiscal year 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 a grant from an allocation made 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 PLAN.

(a) PLAN REQUIRED.—Each State educational agency receiving a grant under this part for a fiscal year shall carry out State activities described in the State plan submitted under section 3325.

(b) CONTENTS.—Each plan submitted under subsection (a) shall—

(1) describe how the State or specially qualified agency is making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

(2) describe how—

(A) in the case of a State educational agency, the State educational agency will hold local educational agencies and elementary 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, unless meeting State content and student performance standards as required by section 1111(b)(1); and

(B) in the case of a specialized 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, unless meeting State content and student performance standards as required by section 1111(b)(1); and

(iv) in the case of a specially qualified agency, the agency will hold local educational agencies in the State that serve limited English proficient students as described in section 3329.

(b) IN GENERAL.—Before making allotments to the State educational agency receiving a grant under this part for a fiscal year, the Secretary shall use the sums reserved under paragraph (1)(E) to make continuation awards to recipients who received grants or fellowships under the Act in the preceding fiscal year, or

(ii) subsidiaries 1 and 3 of part A.

(C) 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 paragraphs.

(5) CONTINUATION 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

(i) an increase of not less than 20 percent, or of not fewer than 50 individuals, in the number of such children and youth enrolled in schools for a fiscal year, means—

(ii) an increase of not less than 20 percent in such number, in the case of a local educational agency that has limited or no experience in serving limited English proficient children and youth enrolled in schools for a fiscal year, means—

(iii) the number of students served by the agency receiving a grant under this part for a fiscal year, or

(v) in the case of a specially qualified agency, the agency will—

(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

(C) describe how—

(i) providing 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) providing technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of helping limited English proficient students meet the challenging State student performance standards as all students are expected to meet;

(iii) providing technical assistance to local educational agencies and elementary schools and secondary schools to identify and develop and implement measures of English language proficiency; and

(iv) providing 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 agency will—

(iv) providing technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of identifying and implementing programs and curricula that are tied to scientifically based research; and

(v) providing technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of providing local educational agencies and elementary schools and secondary schools with the information and technical assistance necessary to meet the performance objectives described in section 3329, for a fiscal year;

(vi) 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, unless meeting State content and student performance standards as required by section 1111(b)(1); and

(vii) 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, unless meeting State content and student performance standards as required by section 1111(b)(1); and

(viii) meets the performance objectives described in section 3329;
meets the requirements of this section, and holds reasonable promise of achieving the purposes described in section 332(b).

(a) DURATION OF THE PLAN.—

(A) Each State plan or specially qualified agency plan shall—

(1) remain in effect for the duration of the State educational agency’s or specially qualified agency’s period of participation under this part by meeting the requirements 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 Act.

(2) describe how language instruction educational programs will ensure that limited English proficient students serving the programs demonstrate proficiency as quickly and as effectively as possible.

(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.

(c) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as a part of a consolidated plan under section 502.

(1) COORDINATION.—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 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 1111(b)(2) for a fiscal year for the cost of administering this part.

(b) CONTENTS.—Each local educational agency receiving grant funds under section 3324(b) shall—

(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) designed to enhance the ability of the teachers to understand and use curricula, assessment measures, and instructional strategies for limited English proficient students;

(ii) designed to scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency; and

(iii) designed 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;

(B) to increase limited English proficient students’ proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(2).

(2) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2).

(3) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs approved 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)(2).

(4) contain 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)(2) for grants under this part and under title I to determine whether the schools 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 Act.

(6) describe how language instruction educational programs will ensure that limited English proficient students serving the programs demonstrate 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) shall use the grant funds to pay certain administrative expenses that are reasonable and necessary to carry out this part.

(b) TEACHER ENGLISH FLUENCY.—Each local educational agency receiving grant funds under section 3324(b) shall—

(i) meet the requirements of section 3324(b) for a fiscal year and hold annually accountable all teachers teaching limited English proficient students, including teachers in classroom settings that are not the settings of language instruction educational programs, that achieve—

(A) to increase limited English proficient students’ proficiency in English by providing high-quality 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) designed scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency; and

(iii) designed 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;

(B) to increase limited English proficient students’ proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(2).

(c) DURATION OF THE PLAN.—

(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) designed to enhance the ability of the teachers to understand and use curricula, assessment measures, and instructional strategies for limited English proficient students;

(ii) designed scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency; and

(iii) designed 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;

(B) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2).

(3) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs approved 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)(2).

(4) contain 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)(2) for grants under this part and under title I to determine whether the schools 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 Act.

(6) describe how language instruction educational programs will ensure that limited English proficient students serving the programs demonstrate proficiency as quickly and as effectively as possible.

SEC. 3328. PROGRAM REQUIREMENTS.

(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)(2). For each 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) 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.

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)(2). For each 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) IN GENERAL.—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). Each State educational agency that fails to meet the annual performance objective 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 consistent with the manner used for State educational agencies specified in paragraph (1).
(a) Regulation rule.—In developing regulations under this part, the Secretary shall consult with State educational agencies, local educational agencies, and 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 their rights under this part.

(2) Program.—Each parent shall be informed that the program shall be carried out in a language other than English, except for 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.

(3) Parental notification.—The Secretary shall ensure that each parent described in subsection (b) and (c).

(4) for financial assistance and costs related to tuition, fees, and books for enrolling in language acquisition programs for limited English proficient students and related programs. The National Clearinghouse shall—

(1) be administered by the Educational Resources Information Center Clearinghouses system supported by the Office of Educational Research and Improve-
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) an integrated program carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

"(2) estimates of the number of certified bilingual teachers and the number of native language teachers who will be needed in the next fiscal year;

"(3) findings of research carried out under this title; and

"(4) 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 content area proficiency and other higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards;

"(C) also develops 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 7806), Native Hawaiians (as defined in section 7807), and native residents of the outlying areas; and

"(D) may include the participation of English proficient students in such program and 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 101 of the Elementary and Secondary Education Act of 1965) 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 any Hawaiian organization, 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 40 percent of its 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 305 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—

"(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

"(III) when feasible, uses instructional programs which enable adult literacy and train parents to support the educational growth of their children, the Parent and Family Involvement Program for Preschool Youngsters; and

"(IV) gives preference to participation by parents and immediate family members of children attending school.

"(B) INSTRUCTION FOR HIGHER EDUCATION AND EMPLOYMENT.—Such program 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 attended 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) who is not native to 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;

"(B) 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

"(C) 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 include 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 activities in the United States and 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 other migrant education programs.

"(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; and

"(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, representatives of 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 for students participating in such programs and shall be given an opportunity to be informed that such parents have the option of declining enrollment of their children in such programs and shall be given an opportunity to decline such enrollment 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.

"(c) RECEIPT OF INFORMATION.—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 decline such enrollment if such parents so choose.

"(d) OPTION TO DECLINE.—

"(1) 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 decline such enrollment if such parents so choose.

"(2) 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.

"(e) TIMELY 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 such information—

"(A) at a level of English proficiency.
(B) if the parents of participating children so desire, notice of opportunities for regular meet-
ings for the purpose of formulating and re-
ponding to recommendations from such par-
tments;
(4) SPECIAL RULE.—Students shall not be ad-
mitted to or excluded from any federally assisted education program merely on the basis of a sur-
name 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 stu-
dents, and increasingly by students in element-
ary 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 do not drink 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 develop-
ment, positive school outcomes, and to reduce the demand for illegal use of alcohol, to-
bacco 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, and community mobilization framework.
"5) Research clearly shows that community contexts contribute to substance abuse and vio-
lence.
(6) Substance abuse and violence are intri-
cately related and must be dealt with in a holis-
tic 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 pro-
grams that prevent violence in and around schools and present the illegal use of alcohol, tobacco, and drugs, and violence-related parent, and commu-
nated with related Federal, State, school, and community efforts and resources, through the provision of Federal assistance to—
(1) The Federal, State, local educational agencies and educational service agencies and con-
sortia of such agencies to establish, operate, and improve local programs of school drug and vio-
lence-related parent, and community efforts to—
"(1) States for grants to local educational agencies and educational service agencies and con-
sortia of such agencies to establish, operate, and improve local programs of school drug and vio-
lence-related parent, and community efforts to—
"(2) States for grants to, and contracts with, community-based organizations and public and private entities for programs of drug and violence prevention including community mobilization, early intervention, rehabilitation referral, and education;
(2) States for development, training, tech-
ical assistance, and coordination activities; and
(3) public and private entities to provide technical assistance, conduct training, demon-
strations, and evaluation, and to provide sup-
port to community mobilization activities for the prevention of drug use and vio-
lence among students and youth.
"SEC. 4004. FUNDING.
There are appropriated to be—
(1) $700,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 suc-
ceeding 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 suc-
ceeding 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 suc-
ceeding fiscal years, for the National Coordi-
inator Initiative under section 4122;
(4) $5,000,000 for each of fiscal years 2002 through 2004 to carry out section 4122; and
each such officer or State representative, in con-
sumption of such performance measures; and
difficulties with alcohol, tobacco, drug, and violence prevention;
(6) contains assurances that the State edu-
cation agency and the Governor will develop and provide the Secretary with recommendations to the State education agency and the Governor on how to improve their respective applications in consultation with an advisory council that includes, to the extent practicable, representatives from school districts, businesses, parents, community leaders, law enforcement, the faith-based community and other groups with interest and expertise in alcohol, tobacco, drug, and violence prevention;
(7) contains a list of the State's results-based performance measures for drug and violence prevention, that shall—
(1) describe indicators and other information on the same basis as the performance measures are made under paragraph (1).
(2) DEFINITIONS.—In this section:
(3) "State.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.
(4) "Local educational agency.—The term 'local educational agency' includes educational service agencies and consortia of such agencies.
"(c) LIMITATION.—Amounts appropriated under section 4002(f) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year if the amounts appropriated under section 4004(1) for the fiscal year involved are at least 10 percent greater than the amounts appro-
priated under such section 4004(1) for the pre-
ceeding fiscal year.
"SEC. 4112. STATE APPLICATIONS.
"(a) IN GENERAL.—In order to receive an al-
loftment 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 education 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 against risk, and other scientifically based research variables in the school and community;
(3) contains assurances that the sections of the education program concerned with drug prevention, that shall—
(1) shall reserve 1 percent of such amount for grants to the Secretary of the Interior to carry out pro-
grams under this part for Indian youth;
(2) may reserve not more than $2,000,000 for the national impact evaluation required by sec-
tion 4117(a); and
(3) shall reserve not less than one-half of 1 percent of such amount that is less than one-half of 1 percent of the total amount so reserved for each such measure, or revising them as necessary for each of the 6 suc-
ceeding fiscal years to carry out section 4126.
"Subpart I—State Grants for Drug and Violence Prevention
"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 an amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Common-
wealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's de-
termination of their respective needs;
(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out pro-
grams under this part for Indian youth;
(3) may reserve not more than $2,000,000 for the national impact evaluation required by sec-
tion 4117(a); and
(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under sec-
tion 4118.
(1) NATIONAL ALLOTMENTS.—
(1) IN GENERAL.—Except as provided in para-
graph (2), the Secretary shall, for each fiscal year, allocate appropriate propor-
tions of the funds made available under subpart 2 for the preceding fiscal year and the sum of such amounts received by all the States;
(2) minimum.—For any fiscal year, no State shall receive an allotment in an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subpart.
(3) REALLOTTMENT.—The Secretary may reallocate any amount of any allotment to a State or to any other group of States if the Secretary determines that the State will be unable to use such amount within 2 years of the allotment period, provided each such reallocation is made on the same basis as the reallocations are made under paragraph (1).
"(4) Definitions.—In this subsection:
(5) "State.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.
"(b) LOCAL EDUCATION AGENCY FUNDS.—A State's application under this section shall also
"Sec. 4002(f) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year if the amounts appropriated under such section 4004(1) for the fiscal year involved are at least 10 percent greater than the amounts appro-
riated under such section 4004(1) for the pre-
ceding fiscal year.
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 a description of technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4113;

(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) the procedures the State educational agency will use to review applications from and allocate funding to local educational agencies under section 4113 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) for drug and violence prevention efforts 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 so as not normally served by the State educational agency, such as school dropouts, suspended and expelled students, 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, volunteer pitchers, and commu—

nity mobilization activities; and

(5) a 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 approval by May 1, 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 receive 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 40 percent of the total amount allocated to a State under section 4114 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 allocated to such State under this subpart as 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, staff of the prevention and mental health service providers, mentoring 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 technological learning resources), for consideration by local educational agencies;

(C) making available to local educational agencies cost effective scientifically based research, program, and performance improvement projects and mentoring programs;

(D) training, technical assistance, and demonstration projects to address violence associated with prevention and intervention;

(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 dis advantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart;

(H) the evaluation of activities carried out within the State under this part; and

(I) (i) alternative programs for the education and discipline of chronically violent and disruptive students as it relates to drug and violence prevention.

(2) SPECIAL RULE.—A State educational agency may carry out activities under this section directly, or through grants or contracts.

(“c) STATE ADMINISTRATION.—

(1) IN GENERAL.—A State educational agency may not use less than 25 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

(“d) 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 educational agencies, and other recipients of funds under this title.

(“e) 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 one or more 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 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)—

(2) Each to each local educational agency in an amount determined to be by the State educational agency; or

(3) II. local educational agencies that the State educa—

tional agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

(“f) REALLOCATION OF FUNDS.—If a local educational agency receives its allocation under this title and determines that the amount received—

(A) high or increasing rates of drug and alcohol abuse 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—alcohol crime;

(D) the extent of illegal gang activity;

(E) high or increasing rates of drug and 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 youth 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.

(“g) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under sub—section (d), or if such agency’s application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such funds to one or more of its local educational agencies.

(“h) 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 educa—

tional 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 re allocate any such funds to such 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 based on criteria established by the State educational agency.

(“i) GOVERNOR’S PROGRAMS.—

(1) 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 the purposes of 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, or other organizations, in consultation with local educational agencies or community-based agencies, for the purposes of carrying out drug abuse and violence prevention activities.

“(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.

“(b) State plan. — Amounts shall be used under this section in accordance with a State plan submitted by the chief executive officer of the State. Such State plan shall contain—

“(1) an objective analysis of the current and expected (and consequences of such use) of alcohol, tobacco, and illegal, addictive or harmful substances as well as the violence, safety, and disciplinarian discipline problems among students who attend schools in the State (including private schools) and participate in the State’s drug and violence prevention programs) that is based on ongoing local assessment or evaluation activities including administrative incident reports, anonymous surveys of students or teachers, and focus groups;

“(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 (and consequences of such use) of alcohol, tobacco, and illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools 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;

“(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through scientifically based research programs;

“(D) the method or methods by which measurements of program goals will be achieved; and

“(E) 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 or justice agencies, and other public and private entities and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities that are focused on—

“(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 adolescents, and students who are educationally absent or disruptive in school environments); and

“(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) to—

“(1) disseminating information about drug and violence prevention strategies identified in the State plan;

“(2) the voluntary training of parents, law enforcement officials, judicial officials, social service providers, health service providers and other appropriate service providers, and community leaders in the State, including the principal leadership of primary schools, child abuse 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, drug-abuse prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training, family mobilization activities to undertake environmental change strategies related to substance abuse and violence;

“(4) developing, establishing, or improving drug-abuse prevention programs, projects, and activities; and

“(5) 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 (and consequences of such use) of alcohol, tobacco, and illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools in the State (including private schools) and participate in the State’s drug and violence prevention programs), that is based on ongoing local assessment or evaluation activities including administrative incident reports, anonymous surveys of students or teachers, and focus groups;

“(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;

“(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through scientifically based research programs;

“(D) the method or methods by which measurements of program goals will be achieved; and

“(E) 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.

“(2) in general.—In order to be eligible to receive a distribution under section 4113(b) for any fiscal year, a local educational agency shall carry out the activities described in this paragraph, to the extent possible, 71 representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, academic and technical professional, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

“(b) Development. —

“(A) Consultation. — A local educational agency shall develop its application under subsection (a) in consultation with a local or regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, academic and technical professional, 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—

“(1) disseminate information about scientifically based research drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

“(2) 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 may affect the activities of the local educational agencies with respect to activities conducted under this subpart; and

“(iv) review program evaluations and other reports of material educational activities and provide the local educational agency with an active and ongoing basis to the local educational agency on how to improve such agency’s drug and violence prevention programs.

“(c) Contents of an application. — An application under this section shall contain—

“(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools in the State (including private schools) and participate in the State’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 (and consequences of such use) of alcohol, tobacco, and illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools in the State (including private schools) and participate in the State’s drug and violence prevention programs), that is based on ongoing local assessment or evaluation activities;

“(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 illegal 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, and any other 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;

“(C) a specification for how protective factors, buffers, or assets if any have been identified; or

“(D) a specification for how the method or methods by which measurements of program goals will be achieved;

“(E) 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 and school employees safe and for discipline and for coordination with community agencies that includes the local education agency’s comprehensive plan under this subpart and the extent to which the proposed plan promotes 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;

“(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 promotes 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 for students, law enforcement officials, judicial officials, health service providers and community leaders in the community;

“(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) contain 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 goals, and programs under this subpart;

“(3) implement activities which shall include—

“(A) a thorough assessment of the substance abuse and violence problems, 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, 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, economic, 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, 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 implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, and violence 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, social, economic, and health consequences of violence 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 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, health service providers and community leaders in designing and implementing strategies to prevent school violence; and

“(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime programs at the school and community level, 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 school-wide violence prevention program, that are tailored by communities, parents and schools;

“(E) alternative programs for the education and discipline of chronically violent and disruptive students as it relates to drug and violence prevention; and

“(F) comprehensive, community-wide strategies to prevent or reduce illegal gang activities and drug use;

“(G) 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 controls;

“(H) administrative approaches to promote school safety, including professional development for principals and administrators to promote school safety and implementing a school disciplinary code, and effective communication of the school disciplinary code to both students and parents at the beginning of the school year;

“(I) the acquisition or hiring of school security, equipment, technologies, personnel, or services as appropriate;

“(A) metal detectors;

“(B) electronic locks;

“(C) surveillance cameras; and

“(D) other drug and violence prevention-related equipment and technologies;

“(J) professional development for teachers and other school staff;

“(K) to provide and disseminate information 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;

“(L) the promotion of before-and-after school recreational, instruction, cultural, and artistic programs in supervised community settings;

“(M) 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 among youth;

“(C) effective in increasing the prevalence of protective factors, buffers, and assets predictive of decreased alcohol, tobacco or drug use and violence among youth;

“(I) the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives;

“(J) community involvement activities including community mobilization;

“(K) voluntary parental involvement and training;

“(L) the evaluation of any of the activities authorized under this section;

“(M) the provision of mental health counseling (by qualified counselors) to students for drug or violence related problems;

“(N) professional supports, services, and programs, including drug and violence prevention and intervention programs, using trained and qualified staff, for students who have been suspended or expelled so such students make continuing progress toward meeting the State’s challenging academic standards and to enable students to return to the regular classroom as soon as possible;

“(O) training teachers, pupil services personnel, and other appropriate school staff on effective strategies for dealing with disruptive students;

“(P) consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or possession, and the suspension or expulsion of a student for drug use or possession, and the use of other staff and curricula that promote the communications such as—

“(A) to have responsibility for the safety and well-being of children;

“(B) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or
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)(3).

"(b) STATE REPORT.—

"(1) IN GENERAL.—By December 1, 2002, and every 2 years thereafter, the chief executive officer of the local 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; and

"(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—

"(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.

"(3) 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 educational agency all of the necessary documentation required for compliance with this section.

"SEC. 4112. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—From 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 local educational agencies to comprehensively address the problem of drug and violence in the State, and to promote drug and violence prevention, reduce violent and self-destructive behavior, to reduce the need for repeat suspensions and expulsions, to enable students to meet challenging State academic standards, and to enable students to return to the regular classroom as soon as possible.

"(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term ‘Native Hawaiian’ means an 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. 4113. NATIONAL 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 for dissemination by the clearinghouse for alcohol and drug abuse, shall—

"(A) carry out national video-based projects that promote drug and violence prevention and education and school safety to community, including the demonstration of model preservice training programs for prospective school personnel;

"(B) develop and disseminate rigorous evaluations of innovative approaches to drug and violence prevention;

"(C) provide 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, including the report established under section 501(d)(16) of the Public Health Service Act;

"(D) develop and disseminate drug and violence prevention materials, including video-based projects and model curricula;

"(E) developing and implementing a comprehensive violence prevention plan for schools and communities that will connect schools to community-wide efforts to reduce drug and violence problems;

"(F) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

"(G) make grants to noncommercial telecommunication entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

"(H) the development of education and training programs, curricula, instructional materials, and professional training and development for parents and teachers to prevent and reduce the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

"(I) other activities that meet unmet national needs related to the pursuant to programs that address violent crimes.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.
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 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. 4125. SCHOOLS AND COMMUNITIES ADVISORY COMMITTEE.**

(1) ESTABLISHMENT.—

(A) 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’’).

(B) Establishment.—The Advisory Committee shall consist of—

(i) a representative of each State educational agency;

(ii) a representative of each State educational agency in each State having a local educational agency participating in a Federal school drug prevention program, including programs established or expanded with grants under this section;

(iii) the Department of Education; and

(iv) the National Institute on Drug Abuse;

(v) the National Institute on Alcoholism and Alcohol Abuse;

(vi) the Center for Substance Abuse Prevention;

(vii) the Center for Mental Health Services;

(viii) the Office of Juvenile Justice and Delinquency Prevention;

(ix) the Office of National Drug Control Policy;

(x) the Federal Bureau of Investigation;

(xi) the National Institute of Justice;

(xii) a representative of the Office of Juvenile Justice and Delinquency Prevention;

(xiii) a representative of the Office of the Attorney General;

(xiv) a representative of the Department of Labor;

(xv) a representative of the Department of Housing and Urban Development;

(xvi) a representative of the Department of Health and Human Services;

(xvii) a representative of the Department of the Treasury;

(xviii) a member of the National Academy of Sciences;

(xix) a member of the National Academy of Medicine;

(xx) a member of the National Academy of Engineering;

(xxi) a member of the National Research Council;

(xxii) a member of the National Academy of Public Administration;

(xxiii) a member of the National Association of School Psychologists;

(xxiv) a member of the National Association of Secondary School Principals;

(xxv) a member of the National Association of Secondary School Principals; and

(xxvi) a member of the National Association of School Psychologists.

(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;

(I) State and local governments, including education agencies; and

(J) researchers and expert practitioners.

(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.

(4) PROGRAMS.—

(A) IN GENERAL.—From amounts made available under section 400(2) to carry out this subpart, the Secretary shall—

(i) establish a program to develop and implement school system-wide substance abuse and violence prevention programs and other drug and violence prevention programs; and

(ii) review authorities and standards developed under this title.

(B) 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;

(I) State and local governments, including education agencies; and

(J) researchers and expert practitioners.

(C) REQUIREMENTS.—Each application under subsection (a) of this section must—

(A) establish a program to develop and implement school system-wide substance abuse and violence prevention programs and other drug and violence prevention programs; and

(B) review authorities and standards developed under this title.

(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 apply for a grant under this section in such form and containing such information as the Secretary may require.

(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

(A) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(B) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(C) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section; and

(D) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section.

(4) USE OF FUNDS.—Amounts received under this subpart shall be used to—

(A) carry out the program described in paragraph (1) of this section;

(B) carry out the program described in paragraph (1) of this section;

(C) carry out the program described in paragraph (1) of this section; and

(D) carry out the program described in paragraph (1) of this section.

(5) COORDINATION.—The Secretary shall endeavor to ensure that programs funded under this section are equitably distributed throughout the State and that such programs are coordinated with other Federal drug and violence prevention programs and other drug and violence prevention programs and other drug and violence prevention programs.

(6) REQUIREMENTS.—Each application under subsection (a) shall include—

(A) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(B) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(C) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section; and

(D) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section.

(7) 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 apply for a grant under this section in such form and containing such information as the Secretary may require.

(8) REQUIREMENTS.—Each application under paragraph (7) shall include—

(A) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(B) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(C) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section; and

(D) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section.

(9) USE OF FUNDS.—Amounts received under this subpart shall be used to—

(A) carry out the program described in paragraph (8) of this section; and

(B) carry out the program described in paragraph (8) of this section.

(10) 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 apply for a grant under this section in such form and containing such information as the Secretary may require.

(11) REQUIREMENTS.—Each application under paragraph (10) shall include—

(A) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section;

(B) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section; and

(C) a description of the schools and community-based substance abuse and violence prevention programs and other drug and violence prevention programs that are part of the proposed program described in this section.

(12) USE OF FUNDS.—Amounts received under this subpart shall be used to—

(A) carry out the program described in paragraph (11) of this section; and

(B) carry out the program described in paragraph (11) of this section.
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.

(2) To establish 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 facing the issue of domestic violence, such as a resource person who is either on-site at an elementary school or 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.

(7) Confidentiality.—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address and implement confidentiality for the victim and the victim’s family in a manner consistent with applicable Federal and State laws.

(8) Application.—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.

(9) Contents.—Each application submitted under paragraph (8) 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 will 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) propose appropriate remuneration for collaborating partners.

(e) Application.—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 201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789q-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) local domestic violence coalitions and community-based youth organizations.

(3) Witness Domestic Violence.—

(A) In General.—The term ‘witness domestic violence’ means witness—

(i) an act of domestic violence that constitutes actual or threatened 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—

(i) directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

(ii) of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

(5) Interagency Agreements.—

(1) Designation of Lead Agency.—The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to discharge the responsibilities and obligations of the grant, contract, or cooperative agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local educational entities and parents and guardians of students.

(2) Contents.—The interagency agreement shall ensure the provision of the services to a student described in subsection (a) specifying with respect to each agency, authority or entity—

(A) the financial responsibility for the services;

(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination;

(C) the conditions and terms of reimbursement among the agencies, authorities or entities that are parties to the interagency agreement, including procedures for dispute resolution.

(4) Application.—

(1) In General.—To be eligible to receive a grant, contract, or cooperative agreement under this section, a State educational agency, local educational agency, or Indian tribe shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary shall require.

(2) Contents.—An application submitted under this section shall—

(A) describe the program to be funded under the grant, contract, or cooperative agreement;

(B) explain how such program will increase access to quality mental health services for students;

(C) explain how the applicant will establish a crisis intervention program to provide immediate mental health services to the school community when necessary;

(D) provide assurances that—

(i) persons providing services under the grant, contract or cooperative agreement are adequately trained to provide such services;

(ii) the services will be provided in accordance with subsection (e); and

(iii) teachers, principal administrators, and other school personnel are aware of the program;

(E) explain how the applicant will support and integrate existing school-based services with this program to provide appropriate mental health services for students; and

(F) explain how the applicant will establish a program that will support students and the school in maintaining an environment conducive to learning.

(e) Use of Funds.—A State educational agency, local educational agency, or Indian tribe, that receives a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract or cooperative agreement to—

(1) enhance, improve, or develop collaborative efforts between school-based service systems and mental health service systems to provide, enhance, or improve prevention, diagnosis, and treatment services;

(2) enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services and on-going mental health services;

(3) provide training for the school personnel and mental health professionals who will participate in the program carried out under this section;

(4) provide technical assistance and consultation to school systems and mental health agencies and families participating in the program carried out under this section;

(5) provide linguistically appropriate and culturally competent services; and

(6) evaluate the effectiveness of the program carried out under this section in increasing student access to quality mental health services,
and make recommendations to the Secretary about sustainability of the program.

“(f) DISTRIBUTION OF AWARDS.—The Secretary shall ensure that grants, contracts, and cooperative agreements awarded under subsection (a) are equitably distributed among the geographical regions of the United States and between urban and rural populations.

“(g) OTHER SERVICES.—Any services provided through programs established under this section shall support, but not supplant, existing Mental Health Services, including any services required to be provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

“(h) EVALUATION.—The Secretary shall evaluate each program carried out by a State educational agency, local educational agency, or Indian tribe, under this section and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

“(i) REPORTING.—Nothing in Federal law shall be construed—

“(1) to prohibit an entity involved with the program from reporting a crime that is committed by a student, to appropriate authorities;

“(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

“(j) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 through 2005.

Subpart 3—General Provisions

Section 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) VIOLENCE AND PREVENTION.—The term ‘drug and violence prevention’ means—

“(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education, the legal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anaesthetic agents;

“(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 violence 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 climate 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 4(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 performance goals defined in terms of the 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) PROJECTION.—The term ‘projection’ means—

“(A) the outcome of a school, agency, organization, or institution of another school, agency, organization, or institution of a school, agency, organization, or institution of a school, agency, organization, or institution; or

“(B) a determination made by a school, agency, organization, or institution of another school, agency, organization, or institution of a school, agency, organization, or institution of a school, agency, organization, or institution; or

“(C) a projection of the results of a school, agency, organization, or institution of another school, agency, organization, or institution of a school, agency, organization, or institution of a school, agency, organization, or institution.

“(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, psychologists, therapists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

“(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.

“(d) DEFINITION.—In this section, the term ‘asset’ means any one of a number 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, 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.

“(e) PROTECTION.—The term ‘protection’ means—

“(A) a determination made by a school, agency, organization, or institution of another school, agency, organization, or institution of a school, agency, organization, or institution of a school, agency, organization, or institution; or

“(B) a determination made by a school, agency, organization, or institution of another school, agency, organization, or institution of a school, agency, organization, or institution of a school, agency, organization, or institution.

“(f) REPORTING.—Nothing in Federal law shall be construed—

“(1) to prohibit an entity involved with the program from reporting a crime that is committed by a student, to appropriate authorities;

“(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 through 2005.

Subpart 4—State Grants To Encourage Community Service by Expelled and Suspended Students

Section 4141. Authorization of Appropriations.

In addition to amounts authorized to be appropriated under section 4004, there are authorized to be appropriated $90,000,000 for fiscal year 2002 for State grants to encourage States to carry out programs under which students expelled or suspended from schools in the States are required to perform community service.

Section 4142. Allotments.

(a) IN GENERAL.—From the amount made available under section 4141, the Secretary shall allocate among the States—

“(1) one-half according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

“(2) one-half according to the ratio between the amount each State received under section 151 for the preceding year and the sum of such amounts received by all the States.

“(b) MINIMUM.—For any fiscal year, no State shall be allotted under this section an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this section.

“(c) REALLOCATION.—The Secretary may reallocate 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 reallocations shall be made on the same basis as allotments are made under subsection (a).

“(d) DEFINITION.—In this section, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.”.

Section 402. GUN-FREE REQUIREMENTS.

Title IV (20 U.S.C. 1701 et seq.) is amended by adding at the end the following:

“PART B—GUN POSSSESSION

Section 4201. GUN-POSSESSION.

“(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 notify parents or guardians of a student that is less than one year a student who is determined to have brought a weapon to a school, or to have possessed a weapon at a school, shall be expelled or suspended from school, and to take appropriate action in such a case. The State shall require any such local educational agency that has expelled a student from such a student’s regular school to notify the student’s parent or legal guardian of such expulsion, and to provide the parent or legal guardian with a copy of the student’s expulsion record.

“(2) CONSTRUCTION.—Nothing in this part shall be construed to authorize a State to decrease or abandon any State law or local educational agency policy that requires parents or guardians of a student to be notified of a student’s expulsion from school, and to provide the parent or legal guardian with a copy of the student’s expulsion record.

“(3) DEFINITION.—For the purposes 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 possessing such authority shall report to the State agency the circumstances surrounding any expulsions imposed under the State law required by subsection (b); and

"(e) EXCEPTION.—Nothing in this section shall apply to a weapon that is lawfully stored inside a locked personal property or if it is the type of weapon approved and authorized by the local educational agency for the purpose of student activities approved and authorized by the local educational agency, or school from establishing a school uniform policy.

"(f) 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 4116(b)(3)."

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 the provisions of this title and subsection 4(b) of title V, funds made available under such titles may be used to—

"(1) support the independent State development and operation of confidential, toll-free telephone hotlines that will operate 7 days per week, 24 hours per day, in order to provide students, school officials, and other individuals with the opportunity to report specific threats of imminent school violence or to report other suspicious or criminal conduct by juveniles to appropriate State and local law enforcement entities for investigation;

"(2) ensure proper State training of personnel to answer and to operate telephone calls to hotlines described in paragraph (1);

"(3) assist in the acquisition of technology necessary to enhance the effectiveness of hotlines described in paragraph (1), including the utilization of Internet web pages or resources;

"(4) enhance State efforts to offer appropriate counseling services to individuals who call hotlines described in paragraph (1); and

"(5) further State efforts to publicize services offered by the hotlines described in paragraph (1) and to encourage individuals to utilize those services.

"SEC. 4305. SCHOOL SECURITY TECHNOLOGY AND RESOURCE CENTER.

"(a) CENTER.—The Attorney General, the Secretary of Education, and the Secretary of Energy shall enter into an agreement for the establishment of a national center to be known as the ‘School Security Technology and Resource Center’."

"(b) ADMINISTRATION.—The center established under subsection (a) shall be administered by the Attorney General.

"(c) FUNCTIONS.—The center established under subsection (a) shall be administered by the Attorney General.

SEC. 4306. LOCAL SCHOOL SECURITY PROGRAMS.

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—From amounts appropriated under subsection (c), the Secretary shall award grants on a competitive basis to local educational agencies to enable the agencies to acquire security technology for, or carry out activities related to improving security at, the middle and secondary school security. The grant shall be awarded to local educational agencies, including obtaining school security assessments, and technical assistance, for the development of a comprehensive school security plan from the School Security Technology and Resource Center.

"(2) APPLICATION.—To be eligible to receive a grant under this section, a local educational agency shall submit to the Secretary an application in such form and containing such information as the Secretary may require, including information relating to the security needs of the agency.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to local educational agencies that demonstrate the highest security needs, as reported by the agency in the application submitted under paragraph (2).

"(4) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002, 2003, and 2004.

"SEC. 4307. SAFE AND SECURE SCHOOL ADVISORY REPORT.

"Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Education and the Secretary of Energy, or their designees, shall—

"(1) develop a proposal to further improve school security; and

"(2) submit that proposal to Congress.

"(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. 4308. LOCAL SCHOOL SECURITY PROGRAMS.

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—From amounts appropriated under subsection (c), the Secretary shall award grants on a competitive basis to local educational agencies to enable the agencies to acquire security technology for, or carry out activities related to improving security at, the middle and secondary school security. The grant shall be awarded to local educational agencies, including obtaining school security assessments, and technical assistance, for the development of a comprehensive school security plan from the School Security Technology and Resource Center.

"(2) APPLICATION.—To be eligible to receive a grant under this section, a local educational agency shall submit to the Secretary an application in such form and containing such information as the Secretary may require, including information relating to the security needs of the agency.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to local educational agencies that demonstrate the highest security needs, as reported by the agency in the application submitted under paragraph (2).

"(4) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002, 2003, and 2004.
SEC. 404. SCHOOL SAFETY ENHANCEMENT.
Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

**PART D—SCHOOL SAFETY IMPROVEMENT.**

SEC. 4401. SHORT TITLE.
This part may be cited as the ‘School Safety Enhancement Act of 2001’.

SEC. 4402. FINDINGS.
(a) CHILDREN.—The following findings:

(1) While our Nation’s schools are still relatively safe, it is imperative that schools be provided with adequate resources to prevent incidents that may lead to school violence.

(b) APPROXIMATELY 10 percent of all public schools reported at least 1 serious violent crime to a law enforcement agency over the course of the 1998-1999 school year.

(c) IN 1996, approximately 225,000 students between the ages of 12 and 18 were victims of nonfatal violent crime in schools in the United States.

(d) FROM 1992 through 1994, 76 students and 29 non-students were victims of murders or suicides that were committed in schools in the United States.

(e) THE SCHOOL violence incidents in several States across the Nation in 1996 and 1999 caused enormous damage to schools, families, and the community.

(f) BECAUSE OF ESCALATING SCHOOL violence, the children of the United States are increasingly afraid that they will be attacked or harmed at school.

(g) A REPORT issued by the Department of Education, in August, 1998, entitled ‘Early Warning, Early Response’ concluded that the reduction and prevention of school violence is best achieved through safety plans which involve the entire community, policies which emphasize both prevention and intervention, training school personnel, parents, students, and community members to recognize the early warning signs of potential violent behavior and to share their concerns or observations with trained personnel, establishing procedures which allow rapid response and intervention when early warning signs of violent behavior are identified, and providing adequate support and access to services for troubled students.

SEC. 4403. NATIONAL CENTER FOR SCHOOL AND YOUTH SAFETY.

(a) ESTABLISHMENT.—The Secretary of Education and the Attorney General shall jointly establish a National Center for School and Youth Safety (in this section referred to as the ‘Center’). The Secretary of Education and the Attorney General shall establish the Center at an existing facility, if the facility has a history of providing outreach to rural and impoverished communities.

(b) FUNDING.—There is authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2005.

SEC. 4404. SAFE COMMUNITIES, SAFE SCHOOLS.

(a) GRANTS AUTHORIZED.—Using funds made available under subsection (c), the Secretary of Education, the Attorney General, and the Secretary of Health and Human Services shall make grants, on a competitive basis, to communities to develop comprehensive school safety plans which address the needs of schools and the students, parents, educators, guidance counselors, psychologists, law enforcement officials, and agencies.

(b) AUTHORIZED ACTIVITIES.—Funds provided under this section may be used for activities that may include efforts to:

(1) increase early intervention strategies;

(2) expand parental involvement;

(3) increase awareness of warning signs of violent behavior;

(4) promote conflict resolution and peer mediation programs;

(5) increase the number of after-school programs;

(6) increase the number of school safety-related equipment and technology programs;

(7) expand the use of safety-related equipment and technology, and

(8) expand students’ access to mental health services.

(c) FUNDING.—There is authorized to be appropriated to carry out this section, $24,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2005.

SEC. 4502. DEFINITIONS.

SEC. 4501. SHORT TITLE.
This part may be cited as the ‘Pro-Children Act of 2001’.

SEC. 4502. DEFINITIONS.

(a) USED as 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 care, education, or library services.

(3) PROHIBITION.—After the date of enactment of this Act, no person receiving funds pursuant to this Act shall permit smoking within any indoor facility owned or leased or contracted for, utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services.

(4) ADDITIONAL PROHIBITION.—

(1) IN GENERAL.—After the date of enactment of this Act, no person receiving funds pursuant to this Act shall permit smoking within any indoor facility owned or leased or contracted for, utilized, by such person for the provision of routine or regular kindergarten, elementary, or secondary education or library 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.

(5) FEDERAL AGENCIES.—

(1) KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION SERVICES.—After the date of enactment of this Act, no Federal agency shall permit smoking within any indoor facility owned or leased or contracted for, utilized, 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 CHILD-
HOOD EDUCATION SERVICES.—

(a) IN GENERAL.—After the date of enactment of the Better Education for Students and Teachers Act, no Federal agency shall permit smokable tobacco or tobacco facility (as defined in section 101 of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development or health education 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 provi-
sions of paragraph (2) shall also apply to the provisions of paragraph (1).

(c) DETERMINATION OF VIOLATIONS.—In de-
termination of the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, any good faith efforts to comply, the importance of achievement of early childhood education, 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 demonstra-
tion of willingness to comply with the provisions of this section in a timely manner;

(3) such other matters as justice may require.

(d) MODIFICATION.—The Secretary may, as appropriate, modify a prohibition, 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.

(e) PETITION FOR REVIEW.—Any person ag-
greed by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for review of the order or the assessment 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, within 90 days after receipt 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, as finally determined by the Secretary or agreed upon in compromise, has 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 within 90 days after the date of the order or assessment.

(f) 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, as finally determined by the court, as described in paragraph (e), or both, by the Secretary under this section may file a petition for review of the order or the assessment 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, within 90 days after receipt 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, as finally determined by the Secretary or agreed upon in compromise, has 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 within 90 days after the date of the order or assessment.

(g) SEC. 407. GRANTS TO REDUCE ALCOHOL ABUSE.

(1) IN GENERAL.—Any failure to comply with a prohibition in this section shall be considered a violation of this section and a copy of the notice or order. A violation of this section and a copy of the transcript of any hearing held under this section may be assessed against a Federal agency or the contractor of such agency providing the services to children. A violation of this section and a copy of the transcript of any hearing held under this section more user-friendly, particularly for low-income and rural local educational agencies.

(b) LOCAL GRANTS.—The Secretary shall make grants to local educational agencies to enable such agencies to develop and implement innovative programs to reduce alcohol abuse, including references to the Substance Abuse and Mental Health Services Administration.
“(1) a description of the mechanism that an applicant will use to match children with mentors based on the needs of the children;

(4) an assurance that no mentor will be assigned to enroll a child that the assignment would undermine either the mentor's ability to be an effective mentor or the mentor's ability to establish a close relationship (a close one-to-one relationship, wherever practicable) with each mentored child;

(5) an assurance that mentoring programs will provide children with a variety of experiences and supports including—

(A) emotional support;

(B) academic assistance; and

(C) experiences that children might not otherwise encounter on their own;

(6) an assurance that monitoring programs will be monitored to ensure that each child assigned a mentor will be assigned that assignment and that there will be a provision for the assignment of a new mentor if the relationship between the original mentor is not beneficial to the child;

(7) information on the method by which mentors and children will be recruited to the mentor program;

(8) information on the method by which prospective mentors will be screened;

(9) information on the training that will be provided to mentors; and

(10) information on the system that the applicant will use to manage and monitor information relating to the program's reference checks, child and domestic abuse record checks, and criminal background checks to its procedure for matching children with mentors.

(1) SELECTION.—

(A) COMPETITIVE BASIS.—In accordance with this subsection, the Secretary shall select grant recipients from among qualified applicants on a competitive basis.

(B) PRIORITY.—In selecting grant recipients under paragraph (1), the Secretary shall give priority to each applicant that—

(A) serves children with greatest need living in rural areas, high crime areas, or troubled home environments, or who attend schools with violence problems;

(B) provides background screening of mentors, training of mentors, and technical assistance in carrying out mentoring programs;

(C) proposes a mentoring program under which each mentor will be assigned to not more children than the mentor can serve effectively; or

(D) proposes a school-based mentoring program;

(2) OTHER CONSIDERATIONS.—In selecting grant recipients under paragraph (1), the Secretary shall also consider—

(A) the degree to which the location of the programs proposed by each applicant contributes to a fair distribution of programs with respect to urban and rural locations;

(B) the quality of the mentoring programs proposed by each applicant, including—

(i) the resources, if any, the applicant will dedicate to providing children with opportunities for job training or postsecondary education;

(ii) the involvement of the applicants, community-based organizations, and the local community, or of participating or will participate, in the design and implementation of the mentor's mentoring program;

(iii) the degree to which the applicant can ensure that mentors will develop long-standing relationships with the children they mentor;

(iv) the degree to which the applicant will serve children with greatest need in the 4th, 5th, 6th, 7th, and 8th grades; and

(v) the degree to which the program will continue to serve children from the 4th grade through graduation from secondary school; and

(C) the capability of each applicant to effectively implement the program;

(4) GRANT TO EACH STATE.—Notwithstanding any other provision of this subsection, in selecting grant recipients under paragraph (1), the Secretary shall select not less than 1 grant recipient from each State for which there is a qualified applicant.

(g) MODEL SCREENING GUIDELINES.—

(1) IN GENERAL.—Based on model screening guidelines developed by the Office of Juvenile Programs of the Department of Justice, the Secretary shall develop such guidelines for mentoring programs that participants specific model guidelines for the screening of mentors who seek to participate in programs to be assisted under this part.

(2) BACKGROUND CHECKS.—The guidelines developed under this subsection shall include, at a minimum, a requirement that potential mentors be subject to reference checks, child and domestic abuse record checks, and criminal background checks.

SEC. 4704. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to identify successful school-based mentoring programs, and the elements, policies, or procedures of such programs that can be replicated.

(b) REPORT.—Not later than 3 years after the date of the enactment of this part, the Comptroller General shall submit a report to the Senate Committee on Appropriations on the results of the study conducted under this section.

(c) USE OF INFORMATION.—The Secretary shall use information contained in the report referred to in subsection (b) to—

(1) improve the quality of existing mentoring programs assisted under this part and other mentoring programs assisted under this Act; and

(2) to develop models for new programs to be assisted or carried out under this Act.

SEC. 4705. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 4703 $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

(b) GRANT FOR TRAINING AND TECHNICAL SUPPORT.—

(1) IN GENERAL.—The Secretary of Education shall make a grant, in such amount as the Secretary considers appropriate, to Big Brothers Big Sisters of America for the purpose of providing training and technical support to grant recipients under part E of title IV of the Elementary and Secondary Education Act of 1965, as added by subsection (a), through the existing system regional mentoring development centers specified in paragraph (4).

(2) REGIONAL MENTORING DEVELOPMENT CENTERS.—The regional mentoring development centers referred to in this paragraph are regional mentoring development centers located as follows:

(A) In Phoenix, Arizona.

(B) In Atlanta, Georgia.

(C) In Boston, Massachusetts.

(D) In St. Louis, Missouri.

(E) In Columbus, Ohio.

(F) In Philadelphia, Pennsylvania.

(G) In Dallas, Texas.

(H) In Seattle, Washington.

(3) PURPOSE.—The purpose of the training and technical support provided through the grant under this subsection is to enable grant recipients to design, develop, and implement quality mentoring programs with the capacity to be sustained beyond the term of the grant.

(4) SERVICES.—The training and technical support provided through the grant under this subsection shall include—

(A) professional training for staff;

(B) program development and management;

(C) strategic fund development;

(D) mentor development; and

(E) marketing and communications.

(5) FUNDING.—Amounts the grant under this subsection shall be derived from the amount authorized to be appropriated by section 4705 of
mentally unhealthy to provide additional funds to meet some or all of the school's renovation, repair, or construction needs.

(6) The degree to which funds expended by public schools to implement improvements or to address the conditions examined under this study are, or have been, appropriately managed by the legally responsible entities.

(c) STUDY.—The study under subsection (a) shall be completed by the earlier of—

(I) not later than 18 months after the date of enactment of this Act; or

(II) not later than December 31, 2002.

(d) PUBLIC DISSEMINATION.—The Secretary shall, not later than 18 months after the date of enactment of this Act, make the study available for public consumption through the Educational Resources Information Center National Clearinghouse for Educational Facilities of the Department of Education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 2002 for the conduct of the study under subsection (a).

SEC. 4802. HEALTHY AND HIGH PERFORMANCE SCHOOLS PROGRAM.

(a) SHORT TITLE.—This section may be cited as the 'Healthy and High Performance Schools Act of 2001'.

(b) PURPOSE.—It is the purpose of this section to assist local educational agencies in the production of healthy, high performance elementary school and secondary school buildings that are energy-efficient, and environmentally healthy.

(c) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

(I) PROGRAM.—There is established in the Department of Education the High Performance Schools Program (in this section referred to as the Program).

(II) GRANTS.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, may, through the Program, award grants to State educational agencies to permit such State educational agencies to carry out paragraph (3).

(3) STATE USE OF FUNDS.—

(A) GRANTS.—

(i) IN GENERAL.—A State educational agency receiving a grant under this section shall use the grant funds made available under subsection (a) to fund projects that—

(II) to obtain technical services and assistance in planning and designing healthy, high performance school buildings; and

(III) to collect and monitor information pertaining to the health, high performance school building projects funded under this section.

(4) LOCAL USE OF FUNDS.—

(A) IN GENERAL.—A grantee receiving a local educational agency under paragraph (3)(A) shall be used to modernize and renovate schools and to achieve energy-efficiency performance that reduces energy use by at least 30 percent below that of a school constructed in compliance with standards prescribed in Chapter 8 of the National Electric Code, or a similar State code intended to achieve substantially equivalent results; and

(B) EXISTING BUILDINGS.—A local educational agency under paragraph (3)(A) for renovation of existing school buildings shall use such grants funds to achieve energy efficiency performance that reduces energy use below the school's baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline.

(c) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

(I) IN GENERAL.—A State educational agency receiving a grant under this section may be used for—

(II) to help bring schools into compliance with Federal and State health and safety standards.

(2) LOCAL USE OF FUNDS.—

(A) GRANTS.—

(i) IN GENERAL.—A State educational agency receiving a grant under this section shall use the grant funds made available under subsection (a) to—

(III) to achieve energy-efficiency performance that reduces energy use below the school's baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline.

(II) FINAL REPORT TO CONGRESS.—

(A) IN GENERAL.—The Secretary shall submit a biennial review of the Program's implementation to Congress.

(B) CONTENTS.—In conducting such reviews, the Secretary shall include a review of how the Program is achieving the purposes set forth in this section and the effectiveness of the Program in achieving policies and goals established by the Secretary.

(C) RELEASE OF PROGRESS REPORT.—The Secretary shall submit a biennial review of the Program's implementation to Congress.

(3) STUDY ON INNOVATIVE PROGRAMS.—The Secretary shall report to Congress on the results of such reviews.

(4) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Secretary shall submit a biennial review of the Program's implementation to Congress.

(B) CONTENTS.—In conducting such reviews, the Secretary shall include a review of how the Program is achieving the purposes set forth in this section and the effectiveness of the Program in achieving policies and goals established by the Secretary.

(C) RELEASE OF PROGRESS REPORT.—The Secretary shall submit a biennial review of the Program's implementation to Congress.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $50,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2011.

(6) REPORTS TO CONGRESS.—

(A) IN GENERAL.—The Secretary shall report to Congress on the results of such reviews.

(B) CONTENTS.—In conducting such reviews, the Secretary shall include a review of how the Program is achieving the purposes set forth in this section and the effectiveness of the Program in achieving policies and goals established by the Secretary.

(C) RELEASE OF PROGRESS REPORT.—The Secretary shall submit a biennial review of the Program's implementation to Congress.

(2) RENEWABLE ENERGY.—The term 'renewable' means energy derived from natural processes such as wind, geothermal, hydroelectric, or biomass power.

(3) LIMITATIONS.—No funds received under this section may be used to—

(I) payment of maintenance of costs in connection with any projects constructed in whole

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $50,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2011.

(2) RENEWABLE ENERGY.—The term 'renewable' means energy derived from natural processes such as wind, geothermal, hydroelectric, or biomass power.

(3) LIMITATIONS.—No funds received under this section may be used to—

(I) payment of maintenance of costs in connection with any projects constructed in whole

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $50,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2011.

(3) LIMITATIONS.—No funds received under this section may be used to—

(I) payment of maintenance of costs in connection with any projects constructed in whole

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $50,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2011.

(3) LIMITATIONS.—No funds received under this section may be used to—

(I) payment of maintenance of costs in connection with any projects constructed in whole

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $50,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2011.
or in part with Federal funds provided under this Act;

(2) the construction of new school facilities;

(3) the improvement or enlargement of facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

SEC. 410. AMENDMENT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT. Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended by adding at the end the following:

"Chapter 3—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities Through the Provision of Certain Services

SEC. 501. FINDINGS.

"Congress makes the following findings:

(1) Approximately 1,000,000 children and youth in the United States have low-incidence disabilities which affects the hearing, vision, movement, emotional, and intellectual capabilities of such children and youth.

(2) There are 15 States that do not offer or maintain teacher training programs for any of the 3 categories of low-incidence disabilities.

(3) The University of Northern Colorado is in a unique position to provide expertise, materials, and equipment to other schools and educators across the Nation to train current and future teachers to educate individuals that are challenged by low-incidence disabilities.

SEC. 502. NATIONAL CENTER FOR LOW-INCIDENCE DISABILITIES.

"In order to fill the national need for teachers trained to educate children who are challenged with low-incidence disabilities, the University of Northern Colorado shall be designated as a National Center for Low-Incidence Disabilities.

SEC. 503. SPECIAL EDUCATION TEACHER TRAINING PROGRAMS.

"(a) Grant.—The Secretary shall award a grant to the University of Northern Colorado to enable such university to provide to institutions of higher education across the Nation such services that are offered under the special education teacher training program carried out by such university, as providing educational materials or other information that is necessary in order to aid in such teacher training.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2002, and $1,000,000 for each of the fiscal years 2003 through 2005."

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

§5011. PURPOSE.

It is the purpose of this part to increase national awareness 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.

§5012. 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 part.

(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 5113, the Secretary shall award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5113.

"(c) PROGRAM REQUIREMENTS.—

(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part 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 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) LIMITATION.—A charter school may not receive—

(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (a); and

(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

"(e) PRIORITY CRITERIA.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year for which appropriations are made by section 5111, the Secretary shall give priority to the States that meet the criteria referred to in paragraph (1) and one or more of the criteria referred to in subparagraph (a), (b), or (c) of section 5114(f)(3).

"(f) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

(A) the objectives of the charter school;

(B) the methods by which the charter school will determine its progress toward achieving the objectives;

(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

(D) description of the administrative relationship between the charter school and the authorized public charter agency.

"(g) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for fiscal year 2002, and $25,000,000 for each of the fiscal years 2003 through 2005.

TITLE VI—APPLICATIONS

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 parents, and communities of the State educational agency's charter school grant program; and

(2) describe how the State educational agency will—

(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) The State—

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress toward achieving the objectives;

(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

(ii) the methods by which the charter school will determine its progress toward achieving the objectives;

(D) a description of the administrative relationship between the charter school and the authorized public charter agency.

(2) describe how the State educational agency will ensure that 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) the 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;

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of how the subgrant funds will be used;

(D) the methods by which the charter school will determine its progress toward achieving the objectives;

(E) a description of the administrative relationship between the charter school and the authorized public charter agency.

"(f) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for fiscal year 2002, and $25,000,000 for each of the fiscal years 2003 through 2005.

TITLE VII—EVALUATION AND STANDARDS

SEC. 5114. EVALUATION AND STANDARDS.

"(a) IN GENERAL.—The Secretary shall award a grant to the University of Colorado at Denver to conduct a study of the extent to which the results of the results of the results of the Results for Children with Disabilities National Center for Low-Incidence Disabilities.

"(b) The Secretary may award a grant to the University of Northern Colorado to conduct a study of the extent to which the results of the Results for Children with Disabilities National Center for Low-Incidence Disabilities.

"(c) The Secretary shall award a grant to the National Center for Low-Incidence Disabilities.

"(d) The Secretary shall award a grant to the National Center for Low-Incidence Disabilities.

"(e) The Secretary shall award a grant to the National Center for Low-Incidence Disabilities.
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 (A) (or equivalent) of the charter school; and

(7) in the case of State educational agencies that propose to use grant funds for dissemination activities under section 5122(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement; and

(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—Each eligible applicant receiving a grant under this subpart may use the grant or subgrant funds to make loans to eligible developers that are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants that propose to use grant funds to support dissemination activities under section 5122(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

(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) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 5122(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.

(2) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant or subgrant under this subpart may require.

(4) 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 an eligible applicant that 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 ongoing success, including—

(iv) 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—

(1) assisting other individuals with the planning and start-up of 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 increase student performance and student achievement at the schools participating in the partnership;

(iii) developing curriculum materials, assessments, and other materials that enhance 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.

(C) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants, including—

(ii) developing partnerships with other public schools, including charter schools, designed to increase student performance and student achievement at the schools participating in the partnership;

(iii) developing curriculum materials, assessments, and other materials that enhance 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.

(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 under this subpart may use the grant or subgrant funds only for—

(1) 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—

(iii) informing the community about the school; and

(iv) acquiring necessary equipment and educational materials and supplies;

(v) acquiring or developing curriculum materials; and

(vi) other initial operational costs that cannot be met from State or local sources.

(4) USE OF FUNDS.—

(A) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subpart shall use such grant funds to—

(1) provide charter schools, either directly or through State educational agencies, with—

(A) information regarding—

(ii) Federal funds that charter schools are eligible to receive; and

(iii) other Federal programs in which charter schools may participate; and

(ii) other Federal programs in which charter schools may participate; 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 focus on the impact of charter schools on student achievement, including information regarding—

(A) students attending charter schools reported to the Secretary of Education on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

(B) the professional qualifications of teachers at the 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) 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 require to create 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 enactment of the Charter School Expansion Act of 1998, and as necessary to ensure that every charter school 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 applying 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 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.

(1) IN GENERAL.—The measures described in section 5116 of this Act shall be construed to require charter schools to consult 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 or activity in the Act that provides education funds to charter schools or regulates the activities of charter schools.

SEC. 5118. RECORDS TRANSFER.

"(1) To the extent practicable, the Secretary shall ensure that a student’s records and, if applicable, a student’s individualized education program as described 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 charter 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 operator of a 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 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 charter school operator, and 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;

(D) is operated by a public chartering agency, and is not affiliated with a description of any, of the school districts 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 that are required of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of achievement gaps in schools and school districts that are significantly segregated or economically segregated, or both; and

(2) the development and design of innovative educational methods and practices;

(3) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and that meet challenging State and local content standards and challenging State and local student performance standards;

(4) programs that are designed to meet the needs of the target group of students served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of achievement gaps in schools and school districts that are significantly segregated or economically segregated, or both; and

(2) the development and design of innovative educational methods and practices;

(3) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and that meet challenging State and local content standards and challenging State and local student performance standards;

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the group of tangible and marketable vocational, technological and career skills of students attending such schools;

(5) programs that are designed to meet the needs of the target group of students served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of achievement gaps in schools and school districts that are significantly segregated or economically segregated, or both; and

(2) the development and design of innovative educational methods and practices;

(3) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and that meet challenging State and local content standards and challenging State and local student performance standards;

(4) programs that are designed to meet the needs of the target group of students served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of achievement gaps in schools and school districts that are significantly segregated or economically segregated, or both; and

(2) the development and design of innovative educational methods and practices;

(3) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and that meet challenging State and local content standards and challenging State and local student performance standards;

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the group of tangible and marketable vocational, technological and career skills of students attending such schools;
high quality education that will enable the students to succeed academically and continue with post second 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 consortium 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."
"(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 organizational characteristics and resource allocations of such magnet school programs; and

"(5) the extent to which magnet school programs continue or 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 section, 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) USE OF FUNDS.—Each State receiving an allotment under subsection (a) shall use 100 percent of the funds awarded to the State to local educational agencies to enable the local educational agencies to carry out school improvement under section 1116(c).

"(c) AMOUNTS.—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 are affected by such waivers account—

"(1) how and the extent to which magnet school programs support the meaningful, measurable, educational goals for each local educational agency that has not been identified for school improvement under section 1116(c);

"(2) the extent to which magnet school programs support the achievement of the purposes and overall expectations described in section 1111(b); and

"(3) the extent to which magnet school programs support the requirements of title I, the performance of State student performance standards, and the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A).

"(A) IN GENERAL.—Each local educational agency will—

"(i) 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 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).

"(B) SPECIAL RULE.—If a local educational agency determines that 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 by such waivers to participate in 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).

"(6) 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 Flexibilities 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 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 district 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 fiscal year 2002 the State is producing the individual school performance profiles required by section 1116(a)(3); or

"(ii) developed and implemented the content standards described in clause (i).

"(B) has—

"(i) developed and implemented 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);

"(ii) holds local educational agencies and schools accountable for meeting 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 1112(h)(2); and

"(C) receives 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 measurable, educational goals of the students who are affected by such waivers.

"(3) STATE APPLICATION.—

"(A) IN GENERAL.—Each State educational agency, in meeting 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 or 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's 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 1116; and

"(v) a description of how the State educational agency will evaluate, consistent with the requirements of title I, the performance of local educational agencies and schools affected by the waivers; and

"(vi) a description of how the State educational agency will meet the requirements of paragraph (9).

"(B) APPROVAL AND CONSIDERATIONS.—The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates a 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) are clear and have the ability to be assessed; and

"(V) take into account the performance of local educational agencies and schools, and students, particularly those affected by waivers;

"(VI) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

"(VII) 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 expectations for the waiver of the program;

"(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency.
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; and

(iv) 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 and this section.

(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 re- form plan that is applicable to such agency or school, respectively; and

(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 student and student performance; and

(iii) the State educational agency is satisfied that the underlying purposes of the statutory requirements to which the waiver would apply continue to be met.

(D) TERMINATION.—The State educational agency shall annually review the performance of any State 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 requirements described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii) 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 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) a description 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 5 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 waivers granted 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 authority under waiver subsection (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 requirements described in paragraph (2)(C); and

(ii) has improved student performance.

(B) PERFORMANCE REVIEW.—Three years after the date on which a State educational agency granted any waiver authority or waiver in a widely read or distrib- uted newspaper or in a widely read or distributed periodical and each local educational agency seeking waiver authority pursuant to this section and each local educational agency or school under subsection (a) and (c) of section 1116, part 2 of part F, and paragraphs (1) and (2) of subsections (a) and (b) of section 1114, part A of title II, part C of title II, part D of title III, and part A of title IV, part D of this part.

(C) TERMINATION.—The Secretary shall terminate any Federal waiver as described in paragraph (3)(A)(v) if the Secretary determines that such waiver authority or waivers have made progress toward achieving the objectives described in the application submitted pursuant to paragraph (3)(A)(iii) has been inadequate to justify continuation of such authority.

(D) 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 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 requirements described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii);

(ii) 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 requirements described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii)

(iii) has been ineffective 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 requirements described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii)

(iv) the waiver of Federal statutory or regu- latory requirements of the program for which a waiver is granted will continue to be met.

(E) TREATMENT OF EXISTING ED-FLEX PART- NERSHIP STATES.—

(a) In general—Except as provided in paragraphs (3) and (4), this section shall not apply to a State educational agency that has been designated an Ed-Flex Partnership State under the provisions described in paragraph (1)(A) and shall terminate such authority under subsections (a) and (b) of section 1114, part A of title II, part C of title II, and part D of title III.

(b) Waivers not required.—The Secretary and the State educational agency may not waive under subsection (a)(1)(A) any statutory or regulatory requirement—

(I) relating to—

(A) maintenance of effort; or

(B) comparability of services;

(II) affecting the participation of students and professional staff in public schools; and

(III) affecting the participation of students or schools receiving waivers under this section.

(c) Waivers not applicable.—The Secretary may not waive under subsection (a)(1)(A) any statutory or regulatory requirement—

(I) relating to—

(A) maintenance of effort; or

(B) comparability of services;

(II) affecting the participation of students and professional staff in public schools; and

(III) affecting the participation of students or schools receiving waivers under this section.

(d) TREATMENT OF EXISTING ED-FLEX PART- NERSHIP STATES.—

(1) In general—Each State that was designated an Ed-Flex Partnership State under the provisions described in paragraph (1)(A) for the duration of the Ed-Flex partnership shall be treated as a State educational agency under this section.

(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) for the duration of the user’s authority.

(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).

(2) SPECIAL RULE.—If a State educational agency granted waiver authority pursuant to the provisions described in paragraph (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,

(D) shall submit the comments received with the agency’s application to the Secretary or the State educational agency, as appropriate.

(9) INCLUDED PROGRAMS.—The statutory or regulatory requirements as described in paragraph (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, part 2 of part F, 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.


(8) WAIVERS NOT REQUIRED.—The Secretary and the State educational agency may not waive under subsection (a)(1)(A) any statutory or regulatory requirement—

(I) relating to—

(A) maintenance of effort; or

(B) comparability of services;

(II) affecting the participation of students and professional staff in public schools; and

(III) affecting the participation of students or schools receiving waivers under this section.

(F) Servicing eligible school attendance areas in rank order under section 1113(a)(3); and

(G) Subpart 4 of this part.
‘(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 the 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 publication of such notices to the State educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

‘Sec. 5211. SHORT TITLE.

‘This subpart may be cited as the ‘Rural Education Achievement Program’.

‘Sec. 5232. 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. 5233. AUTHORIZATION OF APPROPRIATIONS.

‘There are authorized to be appropriated to carry out this subpart—

‘(1) to carry out chapter 1—

‘(A) $150,000,000 for fiscal year 2002; and

‘(B) such sums as may be necessary for each of the 6 succeeding fiscal years; and

‘(2) to carry out chapter 2—

‘(A) $150,000,000 for fiscal year 2002; and

‘(B) such sums as may be necessary for each of the 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 under the provisions of law described in section 5231 or 5232, to—

‘(A) enable the local educational agency to provide 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; or

‘(B) 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.

‘(2) DETERMINATION.—The amount referred to in paragraph (1) shall be determined by the Secretary in accordance with this subsection.

‘(b) IN GENERAL.—The Secretary is authorized to award a grant to a local educational agency to enable the local educational agency to carry out the activities described in section 1114, 1115, 1116, 1117, 1118, 1119, and 5043(b).

‘(c) APPLICATION 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) Disbursement.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative arrangements with other local educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

‘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, 1117, 1118, 1119, and 5043(b).

‘(b) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this section if—

‘(1)(A) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; or

‘(B) each county in which a school served by the local educational agency is located has a total population density of less than 10 persons per square mile; 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.

‘(c) GRANT 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 in section 5231(c) for fiscal year 2002.

‘(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 $50,000.

‘(d) CENSUS DETERMINATION.—

‘(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit to the Secretary on or before the 3rd day of each year the number of kindergartens through grade 12 students in average daily attendance at the schools served by the local educational agency in each of the 3 years ending in the fiscal year.

‘(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.

‘(e) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under paragraph (3), the Secretary may waive the applicable funding to local educational agencies for alternative arrangements with other local educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

‘Sec. 5233. ACCOUNTABILITY.

‘(a) ACADEMIC ACHIEVEMENT.—

‘(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 5231 or 5232 shall use the assessment or test described in paragraph (1), in a manner consistent with the assessment described in section 1111(b), to assess the academic achievement of students served by the local educational agency.

‘(B) prohibit 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

‘(2) 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 IN- SUFFICIENCY.

‘(a) IN GENERAL.—If the amount appropriated for any fiscal year and made available...
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 672(c) 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 5221 for a fiscal year and made available to carry out this chapter, the Secretary shall award grants to eligible local educational agencies for innovative assistance activities described in section 5331(b).

(2) ALLOTMENT.—From the sum appropriated under section 5221 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 on costs provided 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 grants to eligible local 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).

(3) SELECTED SCHOOLS.—The Secretary shall, from the sums appropriated under section 5221 for a fiscal year and made available under this chapter, allot on a competitive basis or according to a formula based on the number of students in average daily attendance at schools served by the eligible local educational agencies.

SEC. 5243. STATE DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—Each State educational agency and specially qualified agency that has an approved application 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) other factors as the State educational agency or specially qualified agency may choose to measure.

SEC. 5244. APPLICATIONS.

(a) IN GENERAL.—Each State educational agency and specially qualified agency that has an approved application to receive a grant under this chapter shall submit a grant application to the Secretary for a fiscal year, which may include—

(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;

(2) the degree to which the agency made progress toward meeting the goals and objectives described in the application submitted under section 5244;

(3) the degree to which the State made progress toward meeting the goals and objectives described in the application submitted under section 5244; and

(4) the methods the State educational agency used to award grants to eligible local educational agencies under this chapter.

(c) AWARD BASIS.—The State educational agency shall award the grants to eligible local educational agencies.

SEC. 5245. ACCOUNTABILITY.

(a) STATE REPORTS.—Each State educational agency that receives a grant under this chapter shall provide to the Secretary an annual report. The report shall describe—

(1) how such agency used the funds provided under this chapter;

(2) how the local educational agencies used the funds provided under this chapter; and

(3) what 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;

(2) the degree to which the agency made progress toward meeting the goals and objectives described in the application submitted under section 5244; and

(3) the degree to which the State made progress toward meeting the goals and objectives described in the application submitted under section 5244.

(c) AWARD BASIS.—The State educational agency shall award the grants to eligible local educational agencies.

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 educational 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 (b), 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) requests a waiver under this section;

(2) requests a waiver under section 5241(b); and

(3) requests a waiver under section 5247(b).

(b) REQUEST FOR WAIVER.—

(1) IN GENERAL.—The Secretary shall process and consider each request for a waiver for a fiscal year in accordance with this section.

(2) ADDITIONAL INFORMATION.—Such request must include—

(A) a description of the waiver requested and how the waiver will assist the local educational agency, Indian tribe, or school to provide assistance to the same populations served by the public schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B); and

(B) a description of how the waiver will assist the local educational agency, Indian tribe, or school to achieve the objectives described in clauses (i) and (ii) of subparagraph (B).

(c) AWARD BASIS.—Each request for a waiver shall be considered by the Secretary on the basis of—

(1) how the waiver will assist the local educational agency, Indian tribe, or school to achieve the objectives described in clauses (i) and (ii) of subparagraph (B); and

(d) DISAPPROVAL.—In determining whether to grant a waiver, the Secretary shall consider—

(1) the methods the State educational agency used to award grants to eligible local educational agencies under this chapter;

(2) the degree to which the State made progress toward meeting the goals and objectives described in the application submitted under section 5244; and

(3) the degree to which the State made progress toward meeting the goals and objectives described in the application submitted under section 5244.

(e) WAIVER APPEALS.—

(1) IN GENERAL.—The Secretary shall provide for an appeal process for all decisions of the Secretary on waiver requests.

(2) PROVIDE ACCESS.—Such appeal process shall include—

(A) procedures for filing and reviewing appeals; and

(B) procedures for making final decisions on appeals.

(f) EFFECTIVE DATE.—Waivers granted under this section shall be effective as of the date on which the Secretary notifies the State educational机关 that the waiver is granted.
"(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 the Secretary with all 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 such 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 distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

(2) maintenance of effort;

(3) the availability of educational 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) requirement for a charter school under part 1 of part A;

(9) the prohibitions regarding—

(A) the amount of such waiver; and

(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 information to the public 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 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 to carry out the objectives of the waiver;

(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested under this paragraph;

(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students; and

(D) summarizes the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

(2) STATE WAIVER.—A State educational agency that receives a waiver under this section shall annually submit a report to the Secretary that—

(A) describes the uses of such waiver by the State to carry out the objectives of the waiver;

(B) evaluates the progress of such State in improving the quality of instruction or the academic performance of students;

(C) provides the purpose of this State's waiver under part A of title I of the program described in section 1111 and the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, and civil rights organizations, and the public.

"Subpart 4—Innovative Education Programs

"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 goals;

(2) to support and encourage the use of innovative educational approaches, including education reform efforts.

(b) STATE AND LOCAL RESPONSIBILITY.—

(1) IN GENERAL.—The calculation of relative enrollment 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 schools.

"SEC. 5302. AUTHORIZATION OF APPROPRIATIONS

(a) AUTHORIZATION.—To carry out the purposes of this subpart, there are authorized to be appropriated $350,000,000 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 2002 and ending September 30, 2008, the Secretary, in accordance with the provisions of this subpart, shall make payments to State educational agencies and local educational agencies serving in the State an amount which bears the same ratio to such sums, the Secretary shall allot to each State an amount which bears the same ratio to the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, and civil rights organizations, and the public.

"SEC. 5303. DEFINITION OF EFFECTIVE SCHOOLS PROGRAM

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall annually submit a report to the Secretary that—

(A) describes the uses of such waiver by the State to carry out the objectives of the waiver;

(B) evaluates the progress of such State in improving the quality of instruction or the academic performance of students; and

(C) achieves as an ongoing condition in the school the following factors identified through effective schools research:

(ii) Strong and effective administrative and instructional leadership.

(iii) A safe and orderly school environment that enables teachers and students to focus on academic performance.

(iv) 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 Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, and civil rights organizations, and the public.

"In this subpart the term 'school-age population' means the population aged 5 through 17 years.

"SEC. 5312. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

(a) FORMULA.—From the sums made available in any fiscal year to carry out this subpart, the State educational agency shall distribute not less than 85 percent to local educational agencies serving in such State according to the following formula:

(i) the number of children living in areas with high concentrations of low-income families;

(ii) the number of children from low-income families; and

(iii) the number of children living in sparsely populated areas.

"(B) COLLECTION 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 authorized under this subpart.

"SEC. 5321. GENERAL

"(a) AUTHORIZATION.—To carry out the purposes of this subpart, there are authorized to be appropriated $600,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.
of—

subparagraph (B), to provide higher per pupil educational funds to the provision of services to special needs children aged birth through 5;

educational needs of children aged birth through 5;

(1) children in schools programs which assist local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools, public and private nonprofit schools in direct support of the innovative assistance described in subpart 1 of part A;

(6) support for arrangements that provide for independent analysis to measure and report on school district achievement;

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

(1) technology activities related to the implementation of school-based reform efforts, including professional development for 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;

(2) programs to provide targeted assistance; and

(4) initiatives to generate, maintain, and strengthen parental and community involvement, including initiatives creating activities for school, children and adults to meet the educational needs of children aged birth through 5.

(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 received 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 the amount of such local educational agency’s allocation as determined under subsection (a).

(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 under this subpart the amount of such funds the Secretary determines that such criteria are reasonable and calculated to reflect changes without filing a new application.

(2) 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 local educational agencies within the local educational agency in such manner.

(3) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require or permit the limitation of the use of such additional funds to the provision of services to specific students or categories of students.

chapter 3—Local Innovative Education Programs

SEC. 5331. TARGETED USE OF FUNDS.

(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available under this subpart to make grants to local educational agencies 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 of such funds to each eligible local educational agency which has submitted an application under this subpart.

(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 under this subpart the amount of such local educational agency’s allocation as determined under subsection (a).

(2) 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 local educational agencies within the local educational agency in such manner.

(3) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require or permit the limitation of 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; and

(2) support for planning, designing, and initial implementation of charter schools as described in subsection (b) of this section; and

(b) planning, supervision, and processing of State and local educational agency applications under this subpart to implement the provisions of this section. The State educational agency shall certify any such application if such application is certified to meet the requirements of this subpart.

(c) 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 local educational agencies within the local educational agency in such manner.

(d) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require or permit the limitation of the use of such additional funds to the provision of services to specific students or categories of students.

SEC. 5322. 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 local educational agencies 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) 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 under this subpart the amount of such local educational agency’s allocation as determined under subsection (a).

(2) 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 local educational agencies within the local educational agency in such manner.

(3) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require or permit the limitation of the use of such additional funds to the provision of services to specific students or categories of students.

(c) 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 local educational agencies within the local educational agency in such manner.

(4) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require or permit the limitation of the use of such additional funds to the provision of services to specific students or categories of students.

SEC. 5323. LOCAL APPLICATIONS.

(a) CONTENTS OF APPLICATION.—A local educational agency may receive an allocation of funds under this subpart to make grants to local educational agencies 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) REQUIREMENTS.—The innovative assistance programs referred to in subsection (a) shall be—

(1) tied to promoting high academic standards;

(2) used to improve student performance; and

(3) part of an overall education reform strategy.

(c) AWARD CRITERIA AND OTHER GUIDELINES.—Not later than 120 days after the date of the enactment of the Better Education for Students and Teachers Act, the Secretary shall issue specific award criteria and other guidelines for local educational agencies seeking funding for activities using funds made available under this subpart.
(c) 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 fiscal effort of the States, 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 Equal Basis.—(1) IN GENERAL.—To the extent consistent with the number of children in the school district of each local educational agency and meet the requirements of subsection (c), a State or local educational agency under this subpart and shall reduce the amount of the allocation of funds made available under State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such secular, neutral, and nondenominational schools, and equipment, including the participation of the teachers of such children, or other personnel serving such children, in the design, planning, and implementation of programs for a period of 3 years, and of the year preceding the fiscal year in which funds to programs for a period of 3 years, and the determination is made was not less than 90 percent of such 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 was 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 for any fiscal year if the Secretary finds that either the combined local 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 was made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(b) Application of Requirements.—The requirements of this section relating to the participation of children, teachers, and personnel serving such children shall apply to programs and projects assisted under this subpart by a State or local educational agency, whether directly or through grants to or 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.

(2) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures incurred in the schools of the local educational agency, taking into account the needs of the individual children be served) to expenditures for programs pursuant to 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 referred to in such arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

(c) PAYMENT FROM STATE ALLOTMENT.—(1) IN GENERAL.—A State or local educational agency may use and allocate funds provided under this subpart 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 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.

(d) 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).

(3) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency is disqualified from the provision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

(4) Waiver and Provision of Services.—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 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.

(e) Waiver and Provision of Services.—(1) IN GENERAL.—To the extent consistent with the number of children in the school district of each local educational agency and meet the requirements of subsection (c), a State or local educational agency under this subpart and shall reduce the amount of the allocation of funds made available under State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such secular, neutral, and nondenominational schools, and equipment, including the participation of the teachers of such children, or other personnel serving such children, in the design, planning, and implementation of programs for a period of 3 years, and of the year preceding the fiscal year in which funds to programs for a period of 3 years, and the determination is made was not less than 90 percent of such 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 was made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(b) Application of Requirements.—The requirements of this section relating to the participation of children, teachers, and personnel serving such children shall apply to programs and projects assisted under this subpart by a State or local educational agency, whether directly or through grants to or 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.

(c) PAYMENT FROM STATE ALLOTMENT.—(1) IN GENERAL.—A State or local educational agency may use and allocate funds provided under this subpart to the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(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).

(2) Waiver and Provision of Services.—If by reason of any provision of law a State or local educational agency is prohibited from providing services to such children through arrangements which shall be subject to the requirements of this section.

(3) Waiver and Provision of Services.—(1) IN GENERAL.—To the extent consistent with the number of children in the school district of each local educational agency and meet the requirements of subsection (c), a State or local educational agency under this subpart and shall reduce the amount of the allocation of funds made available under State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such secular, neutral, and nondenominational schools, and equipment, including the participation of the teachers of such children, or other personnel serving such children, in the design, planning, and implementation of programs for a period of 3 years, and of the year preceding the fiscal year in which funds to programs for a period of 3 years, and the determination is made was not less than 90 percent of such 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 was made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(b) Application of Requirements.—The requirements of this section relating to the participation of children, teachers, and personnel serving such children shall apply to programs and projects assisted 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.

(c) PAYMENT FROM STATE ALLOTMENT.—(1) IN GENERAL.—A State or local educational agency may use and allocate funds provided under this subpart to the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(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).

(2) Waiver and Provision of Services.—If by reason of any provision of law a State or local educational agency is prohibited from providing services to such children through arrangements which shall be subject to the requirements of this section.

(g) Waiver and Provision of Services.—(1) IN GENERAL.—To the extent consistent with the number of children in the school district of each local educational agency and meet the requirements of subsection (c), a State or local educational agency under this subpart and shall reduce the amount of the allocation of funds made available under State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such secular, neutral, and nondenominational schools, and equipment, including the participation of the teachers of such children, or other personnel serving such children, in the design, planning, and implementation of programs for a period of 3 years, and of the year preceding the fiscal year in which funds to programs for a period of 3 years, and the determination is made was not less than 90 percent of such 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 was made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(b) Application of Requirements.—The requirements of this section relating to the participation of children, teachers, and personnel serving such children shall apply to programs and projects assisted 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.

(c) PAYMENT FROM STATE ALLOTMENT.—(1) IN GENERAL.—A State or local educational agency may use and allocate funds provided under this subpart to the provision of services to such children through arrangements which shall be subject to the requirements of this section.
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. Upon the filing of a protest, the court shall have jurisdiction to affirm, reverse, or modify the Secretary’s findings of fact and shall remain available for obligation until the end of the subsequent fiscal year. 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.

Chapter 5—School Construction

SEC. 5351. DEFINITIONS.

(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 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.

SEC. 5352. PROGRAM AUTHORIZED.

(a) In General.—Funds made available to local educational agencies under section 5352 may be used to—

(1) conduct a study of the use of funds under this Act for the administration of activities assisted under title I, such funds during the period of availability as funds available under one or more programs included in the consolidation under subsection (a),

(2) a description of available non-Federal matching funds.

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.—

(i) preparation of drawings and specifications for school facilities; 

(ii) building new school facilities, or acquiring, remodeling, demolishing, renovating, improving, or rehabilitating existing facilities to establish new school facilities; and

(iii) inspection and supervision of the construction of new school facilities.

(b) USE OF FUNDS.—The Secretary, upon request, shall provide technical assistance to a State in the conduct of administrative functions.

(c) CONDITIONS.—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 for administration for that fiscal year.

SEC. 5404. ADMINISTRATIVE FUNDS STUDIES.

(a) Federal Funds Study.—

(i) In General.—The Secretary shall conduct a study of the use of funds under this Act for the administration of activities assisted under title I, such funds during the period of availability as funds available under one or more programs included in the consolidation under subsection (a), and for the purposes described in section 5401(b)(2).

(ii) 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 for administration for that fiscal year.
“(B) statewide program services such as develop-
ment of standards and assessments, curric-
ulum development, and program evaluation;
and

(C) technical assistance and other direct sup-
sport 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 com-
mittees 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 conducted under paragraph (3), the Secretary shall 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 ac-
tivities constitute the administration of pro-
grahms under this Act by State and local edu-
cational agencies and schools;

(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for admin-
istration under all programs, including the use of such funds on a consolidated basis and limi-
tations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

(5) 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 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 of the United States on or before July 1, 1997, regarding:

(I) the potential for the reduction of admin-
istrative expenses at the school, local edu-
cational agency, and State educational agency levels;

(II) the potential usefulness of such data sys-
tem to reduce such administrative expenses;

(III) any other methods which may be em-
ployed by schools, local educational agencies or State educational agencies to reduce administra-
tive expenses and maximize the use of funds for functions directly affecting student learning; and

(IV) 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 DE-
PARTMENT OF THE INTERIOR FUND.

(a) General Authority.—

(1) Transfer.—The Secretary shall transfer to the Department of the Interior, as a consolidated set-aside for the departmental programs, the Federal 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 De-
partment of the Interior under those programs.

(B) 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 of such Federal funds under terms that the Secretary determines best meet the purposes of those programs.

(B) The agreement shall—

(i) be developed in consultation with Indian tribes.

(2) SEC. 5406. AVAILABILITY OF UNNEEDED PRO-
GRAM FUNDS.

With the approval of the Governor of each State, or other entity that administers programs under this Act, all funds not otherwise specified in law.

PART D—COORDINATION OF PROGRAMS; CON-
SOLIDATED STATE AND LOCAL PLANS AND APPLICA-
TIONS

SEC. 5501. PURPOSE.

It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and serv-
ices, under this Act and enhanced integra-
tion of programs under this Act with edu-
cational activities carried out by State and local funds.

SEC. 5502. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

(a) General Authority.—

(1) Simplification.—In order to simplify ap-
lication requirements and reduce the burden on State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Gover-

ner, 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.—After consulta-
tion with the Governor, 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 Pro-
grams for Youth Who Are Neglected, Delin-
quent, 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.—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State appli-
cation under this section shall not be required to submit separate State plans or applications under any of the programs to which the covered State plan or consolidated State application under this section applies.

(4) Collaboration.—

(I) In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agen-
cies, Federal agencies, public and pri-
vate nonprofit agencies, organizations, and insti-
tutions, private schools, and representatives of parents, students, and teachers.

(II) The Secretary shall establish a collaborative process described in subsection (b)(1), the Sec-

tary shall establish, for each program under the Act to which this section applies, the de-
scriptions of requirements, information, assurances, and other material required to be included in a consolidated State plan or consolidated State applica-
tion.

(5) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, as-
surances (including assurances of compliance

with applicable provisions regarding participa-
tion by private school children and teachers), and other materials that are absolutely neces-
sary for the consideration of the consolidated plan or consolidation.

SEC. 5503. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSUR-
ANCES.

(a) Assurance.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 5502, shall require from each program that covered State

(b) Assurance.—Each program shall be administered in accordance with all applicable statutes, regu-
lations, program plans, and applications;

(c) The control of funds provided under each such program and title to property ac-
quired with program funds will be in a public agency, in a nonprofit private agency, institu-
tion, or organization, or in an Indian tribe if the law authorizing the program provides for as-
sistance to such entities; and

(2) The public agency, nonprofit private agency, institution, or organization, or Indian tribe that administers the program shall maintain the property to the extent required by the authorizing law;

(3) The State will adopt and use proper meth-
ods of administering each such program, includ-
ing—

(A) the enforcement of any obligations im-
posed by law on agencies, institutions, organi-
izations, and other recipients responsible for car-
rying out each program;

(B) the correction of deficiencies in program operations that are identified through audits, moni-
toring, or evaluation; and

(c) the adoption of such 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 the evaluation of such program conducted by or for the Secretary or any Federal officials;

(5) The State will use such fiscal control and fund accounting procedures as will ensure prop-
er disposition of funds; and, accounting for, Federal funds paid to the State under each such pro-
gram;

(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 in-
sertion to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary’s duties.

(7) Before the plan or application was sub-
mitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

(b) GPEA 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 pro-
grahms administered by such agencies, the Sec-

(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date

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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 1 or more of such consolidated plans or applications.

(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and has approved a consolidated State plan or application under section 5505 may require local educational agencies in the State receiving funds under more than one program included in the consolidated plan or 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 necessary for the agency to carry out the provisions of this section or identification of the local educational agency plan or application.

SEC. 5506. OTHER GENERAL ASSURANCES.

(a) Assurance.—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) the program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2) 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, organization, or Indian tribe using the funds and title to property acquired with such program funds will not 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 require to enable such agency and the Secretary to perform their duties under each such program; and

"(C) before the application was submitted, the applicable authority, if any, awarded 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.—

"(1) for too many students are not being provided sufficient academic preparation in secondary school, which results in limited employment opportunities and low earnings rates of only 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 school students, and thirty percent of 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 test studies, and 5 States that require that their public universities grant uniform academic credit for scores of 3 or better on advanced placement tests;

"(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 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 include college credit for a small portion 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 a high school diploma 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. This will often be 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; and

"(7) to provide access to advanced placement courses for secondary school juniors at schools that 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 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:* * Seventy percent of the remaining funds shall be available to carry out section 5604. * Fifty percent of any 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(b) for a fiscal year, the Secretary shall award grants, on a competitive basis, to 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 to carry out the authorized activities 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 such programs, including 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 include—

"(1) teacher training;

"(2) preadvanced placement course development;
appropriate under section 5603(2) for a fiscal year, the Secretary shall consider the number of children eligible under section 1124(c) in the State in relation to the number of such children so counted in all the States.

(a) Authorization.—From amounts appropriated under section 5606 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 acquire, develop, and disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(5) Online Advanced Placement.

(6) Supplement, Not Supplant.—Grant funds used in accordance with subsection (e), and amounts made available under this section that remain after meeting the costs described in paragraphs (1) through (5) of this subsection, shall be used to—

(a) carry out activities described in subsection (e);

(b) provide an assurance that any grant funds received under this section will not have access to online advanced placement courses, including contracting for necessary support services.

(7) Report.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to Congress regarding the information.

(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 provide students with online advanced placement courses.

(b) 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.

(c) Award Basis.—The Secretary shall award grants under this section on a competitive basis.

(d) Grants to Local Educational Agencies.—A local 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).

(e) Use of Funds.—Grant funds provided under this section shall be used to provide online advanced placement courses to students served by the eligible entity under paragraph (1) and report to the Secretary—

(a) to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) to local educational agencies within the State to carry out activities described in subsection (e).

(c) to State educational agencies to enable such agencies 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 agency to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees. The term ‘low-income individual’ means—

(1) a student who is—

(A) a high school student;

(B) 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 under section 1124(c) in the State in relation to the number of such children so counted in all the States.

(c) Information.—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 will not have access to online advanced placement courses, including contracting for necessary support services.

SEC. 5701. SHORT TITLE.

This part may be cited as ‘The Performance Agreements Act’.

SEC. 5702. PURPOSE.

(1) to improve the academic achievement of all students served by State educational agencies and local educational agencies that 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.—

(b) Grant Authority—As an alternative to participation 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

(2)(B) 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;

(2)(C) in general.—If more than 7 State educational agencies or 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, to the greatest extent possible, an equitable geographic distribution of such agencies selected for performance agreements among such agencies serving urban and rural areas.

(2)(D) 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); and

(ii) 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 on 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; and

(ii) the term of the local educational agency's original performance agreement has ended.

(iii) APPLICABILITY.—Except as provided in clauses (i) and (ii), each requirement and limitation under this part that is applicable to a State educational agency with respect to a performance agreement under this section, to the extent the Secretary determines appropriate—

(I) local educational agency waiver.—

(1) 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 the performance agreement agreement within 45 days of notification from the State educational agency of the State educational agency's desire to participate in the performance agreement. 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 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.

(2) Provision of other information.—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.

(iv) APPLICABILITY.—The following provisions shall not apply to the State educational agency with respect to a performance agreement under this part—

(I) the provisions of section 5702(a)(2)(A)(i) relating to State educational agency information;

(II) the provisions of section 5704(c)(B) limiting the use of funds other than those funds provided under section 5705(b); and

(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.

(v) The provisions relating to distribution of funds under section 5706.

(vi) The provisions relating to State use of funds for administrative purposes under section 5708(a).

(vii) The provisions of section 5708e(1) regarding State sanctions.

(viii) Ed-Flex Prohibition.—Each State or local educational agency that enters into a performance agreement under this part shall be ineligible to receive funds for the duration 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 paragraph (2); and

(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 agreement under this part; and

(D) contain a 5-year plan describing how the State educational agency will—

(i) ensure compliance with sections 1003, 1111 (other than subsections (b) (3) and (9)), 1112 (other than subsections (b) (3) and (9), (c) (5), (7), and (9), and (d)(3)), 1114, 1115, 1116, 1117, and 1118, and (6), (d) (1), (3), and (7), except that the provision of section 1114(a)(1) shall be supplanted substituting '35 percent' for '40 percent';

(ii) address professional development under the performance agreement;

(iii) provide that 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 3239;

(E) contain an assurance that the State educational agency has provided parents, teachers, 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 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 no supplemental assurance shall be required; and

(J) contain an assurance that the State educational agency will comply with the maintenance of effort requirements of paragraph (2).

(k) Prohibit 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 performance agreement, the State educational agency shall 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(a); and

(ii) a detailed description of the performance agreement between the State educational agency and the local educational agency used the funds consolidated under the performance agreement to exceed, by a statistically significant amount, its definition of adequate yearly progress;

(iii) whether the State educational agency has met the teacher quality goals established under title II; and

(iv) if the local educational agency that includes subpart 1 of part A of title IV in its performance agreement, contain an assurance that—
“(1) 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 Secretary shall prepare the needs assessment described in section 412(a)(2) and the report described in section 4117 (b) and (c), as appropriate, for each school year; and

(iii) The Secretary shall 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 allotment of funds to a State pursuant to the terms of the performance agreement for any fiscal year below the amount of such support for the preceding fiscal year.

B. REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—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 reports a waiver under subparagraph (A) for the same amount by which the State fails to meet the requirements of subparagraph (A).

(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 the amount of such support for the preceding fiscal year.

(B) 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.

(C) Subsequent years.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State reports 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 such 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 requirements 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 under a performance agreement as described in 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 4 OF TITLE I FUNDS.—If part A of title I is to be the performance agreement, the performance agreement shall provide that sections 1112, and 1124 through 1127, shall apply to the allocation of funds for educational programs under 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 serving high proportions 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 concentrated under section 8101, 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 ensure 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 their level of need would occur without such consolidation or use.

(C) Approval of performance agreement.—

(i) In general.—Subject to section 7503(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.

(ii) Peer review.—The Secretary shall—

(A) establish a peer review process to assist in the review of proposed performance agreements under this part, unless the State 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);

(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;

(4) Amendment to performance agreement.—

(A) 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—

(i) change the scope of the agreement any year program described in section 5705(b); or

(ii) include in the scope of the agreement any additional program described in section 5705(b), or program indicators for which the State educational agency will be held accountable.

(B) 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 determines that granting the amendment under this part, except that the State educational agency shall have substantial promise of meeting the requirements that would otherwise be met if 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.

(C) Additional amendments.—In addition to the amendments described in paragraph (1), the State educational agency, at any time, may make such additional amendments to the performance agreement under paragraph (1) that 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. 7505. CONSOLIDATION AND USE OF FUNDS.

(A) In general.—

(i) General.—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 under this part and any funds made available under any programs 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).

(ii) Program requirements.—Except as otherwise provided in this part, a State educational agency may use funds under paragraph (1) not the reduced level of the local educational agency’s support.

(iii) Eligible programs.—Only funds made available for fiscal year 2002 or any succeeding fiscal year to State educational agencies under paragraph (a)(2) of any of the following provisions of law may be consolidated and used under subsection (a):—

(A) Part A (other than section 9003), subpart 1 of part B, part F or G, or subpart 2 of part H (but only if appropriations for such subpart exceed $300,000,000 and the program becomes a State formula grant program), of title I;

(B) Subpart 1 or 2 of part A, or part C, of title II;

(C) Part A or D, as appropriate, of title III (other than grant funds made available under section 3234(c)(1));

(D) Subpart 1 of part A of title IV;

(E) Subpart 3 of part A, or subpart 4 of part B, of title V;

(F) Any appropriation subsequent to fiscal year 2001 for the purposes described in section 3207(a)(2) of the Department of Education Appropriations Act, 2000.

(iii) Appropriation subsequent to fiscal year 2001 for the purposes described in section 3207(a)(2) of the Department of Education Appropriations Act, 2001.

(iii) Any other program under this Act that is enacted after the date of enactment of the Betts Act (other than grant funds made available under which the Secretary provides grants to State educational agencies to assist elementary and secondary education on the basis of a formula);
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 for services and costs for private school teachers and students 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); or

(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 provide any additional benefits or services beyond those allowable under the applicable equitable participation requirements for 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 5704(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 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 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 Secretary of Education, subject to the requirements of this part.

SEC. 5708. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

(a) STATE EDUCATIONAL AGENCY.—Subject to section 5709(a)(1), each State educational agency that has entered into a performance agreement under this part may reserve for administrative purposes not more than 4 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(a)(2), each local educational agency that has entered into a performance agreement with a State under this part may reserve 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 PENALTY PROVISIONS.

(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)), the State educational agency may reserve for administrative purposes not more than 4 percent of 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) 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.

(3) 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.

(c) 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, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress described in the performance agreement has been exceeded by a statistically significant amount—

(3) the ways in which the 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.

The Secretary shall publish 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 5329(b), 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

(2) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 214(a), then the Secretary shall withhold funds as described in section 214(d); and

(3) the State educational agency which included title III in its performance agreement failed to comply with section 2329, 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

(2) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 214(a), then the Secretary shall withhold funds as described in section 214(d); and

(3) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 2329, 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

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(3) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 2329, 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

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(3) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 2329, 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

(2) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 214(a), then the Secretary shall withhold funds as described in section 214(d); and

(3) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 2329, 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

(2) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 214(a), then the Secretary shall withhold funds as described in section 214(d); and

(3) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 2329, 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 State educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of the information reported under section 5708, that the State’s definition of adequate yearly progress for 2 consecutive years, then the Secretary may reserve for administrative purposes not more than 10 percent of the funds under that part for any additional benefits or services beyond those allowable under the applicable equitable participation requirements for this Act.

(2) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 214(a), then the Secretary shall withhold funds as described in section 214(d); and

(3) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 2329, then the Secretary shall withhold funds as described in section 3329(b).
SEC. 502. EMPOWERING PARENTS.

(a) SHORT TITLE.—This section may be cited as the “Empowering Parents Act of 2001”.

(b) PUBLIC SCHOOL CHOICE.—

(1) TITLING SUBSECTION.—This subsection may be referred to as the “Enhancing Public Education Through Choice Act”.

(2) PURPOSES.—The purposes of this subsection are—

(A) to prevent children from being consigned to, or left trapped in, failing schools;
(B) to support and stimulate improved public school performance through increased public school competition and increased Federal financial assistance;
(C) to provide parents with more choices among public school options; and

(E) to assist local educational agencies with low-performing schools to implement district-wide public school choice programs or enter into partnerships with other local educational agencies to offer students interdistrict or statewide public school choice programs.

(3) PUBLIC SCHOOL CHOICE PROGRAMS.—Part A of title V, as amended in section 501, is further amended by adding at the end the following: "Subpart 4—Voluntary Public School Choice Programs"

SEC. 5161. DEFINITIONS.

In this subpart—

(1) CHARTER SCHOOL.—The term ‘charter school’ has the meaning given such term in section 512B.

(2) LOWEST PERFORMING SCHOOL.—The term ‘lowest performing school’ means a public school that has failed to make adequate yearly progress, as described in section 1111, for 2 or more years.

(3) POVERTY LINE.—The term ‘poverty line’ means the income official poverty line (as defined in title V, as amended in section 512, 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, for the most recent fiscal year for which satisfactory data are available.

(4) PUBLIC SCHOOL.—The term ‘public school’ means a charter school, a public elementary school, and a public secondary school.

(5) POVERTY.—The term ‘student in poverty’ means a student from a family with an income below the poverty line.

SEC. 5162. GRANTS.

The Secretary shall make grants, on a competitive basis, to State educational agencies and local educational agencies, to enable the agencies, including the agencies serving the lowest performing schools, to implement programs of universal public school choice.

SEC. 5163. USE OF FUNDS.

(A) In general.—An agency that receives a grant under this subpart shall use the funds made available through the grant to pay for the expenses of implementing a public school choice program, including—

(1) the expenses of providing transportation services, or the cost of transportation to eligible children;

(2) the cost of making tuition transfer payments to public schools to which students transfer under the program; and

(3) the cost of capacity-enhancing activities that enable high-demand public schools to accommodate transfer requests under the program;

(B) the program is carried out by a partnership, the name of each partner and a description of the partner’s responsibilities;

(4) a description of the policies and procedures the agency will use to ensure—

(A) accountability for results, including goals and performance indicators; and

(B) that the program is open and accessible to, and will promote high academic standards for, all students; and

(5) such other information as the Secretary may require.

SEC. 5164. REQUIREMENTS.

In making grants under this subpart, the Secretary shall give priority to—

(A) held accountable to the public;

(B) notice.—In carrying out a public school choice program under this subpart, a State educational agency or local educational agency shall give eligible students prompt notice of the existence of the program and the program’s availability to such students, and a clear explanation of how the program will operate.

(c) TRANSPORTATION.—In carrying out a public school choice program under this subpart, a State educational agency or local educational agency shall ensure that students with transportation services, or the cost of transportation to and from the public schools, including charter schools, that the students choose to attend under this program,

(d) NONDISCRIMINATION.—Notwithstanding subsection (a)(3), no public school may discriminate on the basis of race, color, religion, sex, national origin, or disability in providing programs and activities under this subpart.

(e) PARALLEL ACCOUNTABILITY.—Each State educational agency or local educational agency receiving a grant under this subpart for a program through which a charter school receives assistance shall hold the school accountable for adequate yearly progress in improving student performance as described in title I and as established in the school’s charter, including the use of the standards and assessments established under title I.

SEC. 5165. APPLICATIONS.

(A) In general.—To be eligible to receive a grant under this subpart, a State educational agency or local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) CONTENTS.—Each application for a grant under this subpart shall include—

(1) a description of the program for which the agency seeks funds and the goals for such program;

(2) a description of how the program will be coordinated with, and will complement and enhance, other related Federal and non-Federal projects;

(3) if the program is carried out by a partnership, the name of each partner and a description of the partner’s responsibilities;

(4) a description of the policies and procedures the agency will use to ensure—

(A) accountability for results, including goals and performance indicators; and

(B) that the program is open and accessible to, and will promote high academic standards for, all students; and

(5) such other information as the Secretary may require.

SEC. 5166. PRIORITIES.

In making grants under this subpart, the Secretary shall give priority to—

(1) first, those State educational agencies and local educational agencies serving the lowest performing schools;

(2) second, those State educational agencies and local educational agencies serving the highest percentage of students in poverty; and

(3) third, those State educational agencies or local educational agencies forming a partnership that seeks to implement an interdistrict approach to carrying out a public school choice program.

SEC. 5167. EVALUATIONS, TECHNICAL ASSISTANCE, AND DISSEMINATION.

SEC. 5168. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subpart $125,000,000 for fiscal year 2002 and each subsequent fiscal year.

PUBLIC CHARTER SCHOOL FACILITIES FINANCING

SEC. 5112. SHORT TITLE OF SUBSECTION.—This subsection may be cited as the “Charters Schools Equity Act”.

(2) PURPOSES.—The purposes of this subsection are—

(A) to help eliminate the barriers that prevent charter school developers from accessing the credit markets, by encouraging lending institutions to lend funds to charter schools on terms more similar to the terms typically extended to traditional public schools; and

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

(3) CHARTER SCHOOLS.—

(A) CONFORMING AMENDMENT.—Section 5112(e)(1), as amended in section 501, is further amended by inserting ‘‘(other than funds reserved to carry out section 5115(b))’’ after ‘‘section 5112’’.

(B) MATCHING GRANTS TO STATES.—Section 5115, as amended in section 501, is further amended—

(i) in subsection (a), by inserting ‘‘(other than funds reserved to carry out subsection (b))’’ after ‘‘this subpart’’;

(ii) by redesignating subsection (b) as subsection (c); and

(iii) by inserting after subsection (a) the following:

‘‘(6) PER-PUPIL FACILITIES AID PROGRAMS.—

(1) GRANTS.—

(A) In General.—From the amount made available to carry out this subsection under section 5121 for any fiscal year, the Secretary shall make grants, on a per-pupil basis, to charter schools serving the low-performing schools in financing school facilities (referred to in this subsection as ‘‘per-pupil facilities aid programs’’).

(1) PERIOD.—The Secretary shall award grants under this subsection for periods of not more than 5 years.}
(C) FEDERAL SHARE.—The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not less than:

(1) 80 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection or its predecessor authority,

(2) 90 percent in the second such year,

(3) 90 percent in the fourth such year; and

(4) 100 percent in the fifth such year.

(2) USE OF FUNDS.—

(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State.

(B) TECHNICAL ASSISTANCE, DISSEMINATION.—From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 20 percent of the amount to carry out evaluations, to provide technical assistance, and to disseminate information.

(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall supplement, and not supplant, State and local public funds expended to provide per-pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

(3) REQUIREMENTS.—

(A) VOLUNTARY PARTICIPATION.—No State may begin or continue a program in a carry-over year under this subsection.

(B) STATE LAW.—To be eligible to receive a grant under this subsection, a State shall establish or improve innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

(C) 1 GRANT TO AN ELIGIBLE ENTITY.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(4) PRIORITIES.—In making grants under this subsection, the Secretary shall give priority to:

(i) applications that are of sufficient quality to merit approval and which are not.

(II) effective in improving public education;

(III) are consistent with the national interest;

(iv) specify an application that is not of sufficient quality to merit approval and which are not.

(4) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application that is not of sufficient quality to merit approval and which are not.

(5) GRANTS TO ELIGIBLE ENTITIES.—(A) IN GENERAL.—From the amount made available to carry out this chapter to eligible entities having applications approved under this chapter to carry out or enhance innovative credit enhancement initiatives for assisting charter schools, the Secretary shall award not fewer than 3 of the grants.

(B) GRANTEE SELECTION.—(1) DETERMINATION.—The Secretary shall evaluate the viability and feasibility of an application and shall determine which applications are of sufficient quality to merit approval and which are not.

(2) MINIMUM GRANTS.—The Secretary shall award at least 1 grant to an eligible entity described in section 5126A(1); and

(C) MAXIMUM GRANTS.—(1) IN GENERAL.—The funds available to carry out this chapter, for any fiscal year, the Secretary may award not fewer than 3 grants.

(2) E VALUATIONS; TECHNICAL ASSISTANCE; AND DISSEMINATION.—(A) IN GENERAL.—The Secretary shall reserve, from the amount appro

(6) EVALUATIONS, TECHNICAL ASSISTANCE, AND DISSEMINATION.—

(A) IN GENERAL.—From the amount made available to carry out this chapter, the Secretary shall reserve, from the amount appro

(7) SUCH OTHER INFORMATION AS THE SECRETARY MAY REQUIRE.

(8) SEC. 5126B. RESERVE ACCOUNT.—(A) IN GENERAL.—For the purpose of assisting charter schools to accomplish the objectives described in section 5126C, an eligible entity receiving a grant under this chapter shall deposit the funds received through the grant, and deposited in the reserve account established under section 5126D(a), to or more charter schools to or more to private sector capital to accomplish 1 or more of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of a facility, or an interest held by a third party for the benefit of a charter school in improved or unimproved property that is necessary to commence or continue the operations of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operations of a charter school.

(3) The payment of start-up costs, including the costs of training teachers and purchasing materials and equipment, including instructional materials and computers, for a charter school.

(9) SEC. 5126C. CHARTER SCHOOL OBJECTIVES.—(A) IN GENERAL.—For the purpose of assisting charter schools to accomplish the objectives described in section 5126B, an eligible entity receiving a grant under this chapter shall deposit the funds received through the grant, and deposited in the reserve account established under section 5126D, to or more charter schools to or more to private sector capital to accomplish 1 or more of the following objectives:

(1) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operations of a charter school.

(2) The payment of start-up costs, including the costs of training teachers and purchasing materials and equipment, including instructional materials and computers, for a charter school.
“(d) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this chapter shall be deposited in the reserve account established under subsection (a) and used in accordance with subsection (b).

SEC. 5126E. LIMITATION ON ADMINISTRATIVE COSTS.

An eligible entity that receives a grant under this chapter shall not use more than 25 percent of the amount of the funds received through the grant for the administrative costs of carrying out the entity’s responsibilities under this chapter.

SEC. 5126F. ACCOUNTING AND REPORTS.

(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this chapter shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) REPORTS.—

(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this chapter annually shall submit to the Secretary a report of the entity’s operations and activities under this chapter.

(2) CONTENTS.—Each such annual report shall include—

(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant auditing the financial records of the eligible entity;

(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the preceding period;

(C) an evaluation by the eligible entity of the effectiveness of the entity’s use of the Federal funds provided under this chapter in leveraging private funds;

(D) a listing and description of the charter schools served by the entity with such Federal funds during the reporting period;

(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 5126C; and

(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this chapter during the reporting period.

(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to the Congress on the activities conducted under this chapter.

SEC. 5126G. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

No financial obligation of an eligible entity entered into pursuant to this chapter (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States.

SEC. 5126H. RECOVERY OF FUNDS.

Any provision of this chapter shall be construed to prohibit a parental information and resource center from—

(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

(2) working with another agency that serves children.

SEC. 6101. GRANTS APPLICATIONS.—

(a) GRANTS APPLICATION.—

(1) IN GENERAL.—Each nonprofit organization (including a statewide 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.—The application submitted under paragraph (1), at a minimum, shall include assurances that the organization or consortium will—

(A) be governed by a board of directors the membership of which includes parents; or

(B) be an organization or consortium that represents the interests of parents;

(C) establish a special advisory committee the membership of which includes—

(i) parents described in section 6111(b)(1)(A), who shall constitute a majority of the members of the special advisory committee;

(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.

(D) 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;

(E) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(F) serve both urban and rural areas;

(G) design a center that meets the unique training, information, and other needs of parents described in section 6111(b)(1)(A), particularly such parents who are educationally or economically disadvantaged;

(H) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought;

(I) network with—

(i) local educational agencies and schools;

(ii) parents of children enrolled in elementary schools and secondary schools;

(iii) parent information centers assisted under section 622 of the Individuals with Disabilities Education Act;

(iv) teachers of Head Start, and of Head Start and Parent-Teacher Center programs or other early childhood parent education programs;

(K) provide assistance to parents in such areas as understanding State and local standards and measures of student and school performance;

(L) meet with the heads of local educational agencies and schools, organizations that support family-school partnerships (such as parent-teacher associations and Parents as Teachers organizations), and other organizations that carry out parent education and family involvement programs; and

(M) parents of children from birth through age 5.

(2) AWARD RULE.—In awarding grants under this part, the Secretary shall ensure that such grants are distributed in all geographic regions of the States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a parental information and resource center from—

(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

(2) working with another agency that serves children.

SEC. 6101A. GRANTS APPLICATIONS.—

(a) GRANTS APPLICATION.—

(1) IN GENERAL.—Each nonprofit organization (including a statewide 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.—The application submitted under paragraph (1), at a minimum, shall include assurances that the organization or consortium will—

(A) be governed by a board of directors the membership of which includes parents; or

(B) be an organization or consortium that represents the interests of parents;

(C) establish a special advisory committee the membership of which includes—

(i) parents described in section 6111(b)(1)(A), who shall constitute a majority of the members of the special advisory committee;

(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.

(D) 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;

(E) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(F) serve both urban and rural areas;

(G) design a center that meets the unique training, information, and other needs of parents described in section 6111(b)(1)(A), particularly such parents who are educationally or economically disadvantaged;

(H) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought;

(I) network with—

(i) local educational agencies and schools;

(ii) parents of children enrolled in elementary schools and secondary schools;

(iii) parent information centers assisted under section 622 of the Individuals with Disabilities Education Act;

(iv) teachers of Head Start, and of Head Start and Parent-Teacher Center programs or other early childhood parent education programs;

(K) provide assistance to parents in such areas as understanding State and local standards and measures of student and school performance;

(L) meet with the heads of local educational agencies and schools, organizations that support family-school partnerships (such as parent-teacher associations and Parents as Teachers organizations), and other organizations that carry out parent education and family involve-
“(L) work with State and local educational agencies to determine parental needs and delivery of services; 
(M) identify and coordinate Federal, State, and local programs and partnerships that support improved student learning, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training; and
(N) work with and foster partnerships with other agencies that provide programs and deliver services described in subparagraph (M) to make such programs and services more accessible to children and families.

(b) RESERVATION.—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—

(1) to assist parents in participating effectively in their children’s education and to help their children meet State and local standards, such assistance shall be used—

(A) to engage in activities that will improve student performance, including understanding the accountability systems in place within their State, the State, 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 parents who are not making adequate educational progress;

(F) to participate in State and local decision-making; and

(G) to train other parents (such as training related to Parents as Teachers activities);

(2) to obtain information about the range of options, programs, services, and resources available to support their children’s educational development and local level 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, State, and local services and programs that serve their children or their families;

(5) to provide support for State or local educational personnel if the participation of such personnel will further the activities assisted under this part;

(6) to coordinate and integrate early childhood programs with school age programs.

(b) PERMISSIVE ACTIVITIES.—Grant funds received under this section 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) implementing any other Federal, State, and local parent education and family involvement initiatives; and

(3) providing information, training, and support to—

(A) State educational agencies; 

(B) local educational agencies and schools, especially those that were awarded a title I 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 Early Reading First and Parent-Teacher Education 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 parents, parents with limited literacy skills, and other parents in need of the services provided under this part;

(4) the program, 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 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. 6106A. LOCAL FAMILY INFORMATION CENTERS.

(a) CENTERS AUTHORIZED.—The Secretary shall award grants to, and enter into contracts with, local nonprofit parent organizations to establish community centers to support local family information centers that help ensure that parents of students in schools assisted under this part have the training, information, and support the parents need to enable the parents to participate effectively in their children’s early childhood education, in their children’s elementary education, and in helping their children to meet challenging State standards.

(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; and

(III) the progress of the State in increasing the percentage of students who graduate from secondary school; and

(IV) the progress of the State in increasing the percentage of students who graduate from secondary school.

(b) GRANT APPROVALS.—In applying the criteria described in subparagraph (a), the Secretary shall give the greatest weight to the criterion described in subparagraph (a)(III) and the criterion described in subparagraph (a)(IV).
payments to States that develop State assessments by the deadline established under section 1111(b)(3)(F) and as required under section 1111(b)(3)(F) that are of particularly high quality in the performance of students in grades 3 through 8. The Secretary shall make the awards to States that develop assessments that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(2) fostering the quality of research or demonstration projects, in the following manner:

(a) designing and submitting proposals for projects that most effectively assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(b) identifying the costs that are expected to be incurred in each of the succeeding years, and the portion of the costs that are expected to be incurred in each of the succeeding years, to the Secretary for State administration under the program authorized by this Act that the Secretary determines are formula grants.

(c) identifying the costs that are expected to be incurred in each of the succeeding years, to the Secretary for State administration under the program authorized by this Act that the Secretary determines are formula grants.

(d) assessing the quality of the research or demonstration projects conducted under this subsection.

(e) The Secretary may make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(f) A State may reserve for the subsequent fiscal year 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 grants.

(3) maintaining the quality of the research or demonstration projects conducted under this subsection.

(4) fostering the quality of the research or demonstration projects conducted under this subsection.

(f) Awards shall be made the Secretary for State administration under the programs authorized by this Act that the Secretary determines are formula grants.

(g) For the purposes of carrying out paragraph (1), the Secretary shall use a peer review process.

(h) The Secretary shall make awards to States under paragraph (1) on a competitive basis and shall make awards to States that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(i) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(j) A State may reserve for the subsequent fiscal year 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 grants.

(k) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(l) A State may reserve for the subsequent fiscal year 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 grants.

(m) For the purposes of carrying out paragraph (1), the Secretary shall use a peer review process.

(n) The Secretary shall make awards to States under paragraph (1) on a competitive basis and shall make awards to States that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(o) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(p) A State may reserve for the subsequent fiscal year 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 grants.

(q) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(r) A State may reserve for the subsequent fiscal year 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 grants.

(s) For the purposes of carrying out paragraph (1), the Secretary shall use a peer review process.

(t) The Secretary shall make awards to States under paragraph (1) on a competitive basis and shall make awards to States that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(u) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(v) A State may reserve for the subsequent fiscal year 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 grants.

(w) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(x) A State may reserve for the subsequent fiscal year 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 grants.

(y) For the purposes of carrying out paragraph (1), the Secretary shall use a peer review process.

(z) The Secretary shall make awards to States under paragraph (1) on a competitive basis and shall make awards to States that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(aa) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(bb) A State may reserve for the subsequent fiscal year 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 grants.

(cc) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(dd) A State may reserve for the subsequent fiscal year 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 grants.

(ee) For the purposes of carrying out paragraph (1), the Secretary shall use a peer review process.

(ff) The Secretary shall make awards to States under paragraph (1) on a competitive basis and shall make awards to States that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(gg) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(hh) A State may reserve for the subsequent fiscal year 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 grants.

(ii) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(jj) A State may reserve for the subsequent fiscal year 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 grants.

(kk) For the purposes of carrying out paragraph (1), the Secretary shall use a peer review process.

(ll) The Secretary shall make awards to States under paragraph (1) on a competitive basis and shall make awards to States that most successfully assess the range of knowledge and skills and the progress of students in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

(mm) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.

(nn) A State may reserve for the subsequent fiscal year 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 grants.

(oo) The Secretary shall make awards to States for the purposes of carrying out projects described in paragraph (1) to the extent that such sums as may be necessary in fiscal year 2002, and such sums as may be necessary for each of the succeeding fiscal years, are made available for such purposes.
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.

§ 6301. SHORT TITLE

This part may be cited as the 'Student Education Enrichment Demonstration Act'.

§ 6302. PURPOSE

The purpose of this part is to establish a demonstration that provides Federal support to States and local educational agencies to provide high quality summer academic enrichment programs, for public school students who are at risk academically, that are implemented as part of statewide education accountability programs.

§ 6303. DEFINITION

In this part, the term 'student' means an elementary school or secondary school student.

§ 6304. GRANTS TO STATES

(a) In General.—The Secretary shall establish a demonstration program through which the Secretary shall make grants to State educational agencies, on a competitive basis, to enable the agencies to assist local educational agencies in carrying out high quality summer academic enrichment programs as part of statewide accountability programs.

(b) Eligibility.—For a State educational agency to be eligible to receive a grant under subsection (a), the State educational agency shall—

(1) have in effect all standards and assessments required under section 1111; and

(2) compile and annually distribute to parents a public school report card that, at a minimum, includes information on student and school performance for each of the assessments required under section 1111.

(c) Application.—

(1) In General.—To be eligible to receive a grant under this section, a State educational agency shall submit to the Secretary an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Contents.—Such application shall include—

(A) information describing specific measurable goals and objectives to be achieved in the State and the manner of implementing academic enrichment programs carried out under this part, which may include specific measurable annual educational goals and objectives relating to—

(i) increased academic achievement;

(ii) decreased student dropout rates; or

(iii) such other factors as the State educational agency may choose to measure; and

(B) information, criteria, established or adopted by the State, that—

(i) the State will use to select local educational agencies for participation in the summer academic enrichment programs carried out under this part; and

(ii) at a minimum, will assure that grants provided under this part are provided to—

(I) the local educational agencies in the State that—

(aa) are serving more than 1 school identified for school improvement under section 1116(c); and

(bb) have the highest percentages of students not achieving a proficient level of performance on State assessments required under section 1111; or

(II) local educational agencies that submit grant applications under section 6305 describing programs that the State determines would be both highly successful and replicable; and

(III) an assortment of local educational agencies serving urban, suburban, and rural areas.

§ 6305. GRANTS TO LOCAL EDUCATIONAL AGENCIES

(a) In General.—

(1) First Year.—

(A) In General.—For the first year that a State educational agency receives a grant under this part, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of carrying out the summer academic enrichment programs, except as provided in subparagraph (B).

(B) Technical Assistance and Planning Assistance.—The State educational agency may use not more than 5 percent of the funds—

(i) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the agency for the program; and

(ii) to enable the agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(iii) to assist the agencies in planning activities to be carried out under this part.

(2) Succeeding Years.—

(A) In General.—For the second and third year that a State educational agency receives a grant under this part, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of carrying out the summer academic enrichment programs, except as provided in subparagraph (B).

(B) Technical Assistance and Planning Assistance.—The State educational agency may use not more than 5 percent of the funds—

(i) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the agency for the program; and

(ii) to enable the agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(iii) to assist the agencies in evaluating activities carried out under this part.

(b) Application.—

(1) In General.—To be eligible to receive a grant under this section, 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 Secretary or the State may require.

(2) Contents.—The State shall require that such an application include—

(A) information describing specific measurable goals and objectives to be achieved in the State and the manner of implementing academic enrichment programs carried out under this part, which may include specific measurable annual educational goals and objectives relating to—

(i) increased academic achievement;

(ii) decreased student dropout rates; or

(iii) such other factors as the State educational agency may choose to measure; and

(B) information, criteria, established or adopted by the State, that—

(i) the State will use to select local educational agencies for participation in the summer academic enrichment programs carried out under this part; and

(ii) at a minimum, will assure that grants provided under this part are provided to—

(I) the State educational agency will acquire any needed technical assistance that is aligned with the curriculum of the agency for the program, and intensity to achieve the State's goals and objectives described in section 6304(c)(2)(A); and

(ii) shall include an explanation of how the local educational agency will develop and utilize individualized learning plans that outline the steps to be taken to help each student successfully meet that State's academic standards for completion of the summer academic enrichment program;

(B) an outline indicating how the local educational agency will implement the program and that the instruction provided through the program will be provided by qualified teachers;

(D) an explanation of the types of intensive professional development or training that are aligned with the curriculum of the program, that will be provided for staff of the program;

(E) an explanation of the facilities to be used for the program;

(F) an explanation regarding the duration of the periods of time that students and teachers in the program meet; and

(G) an explanation of the salary costs for teachers in the program.

(K) a description of a method for evaluating the effectiveness of the program at the local level;

(L) information describing specific measurable goals and objectives, for each academic subject in which the program will provide instruction, that are consistent with, or more rigorous than, the annual measurable objectives for adequate yearly progress established by the State under section 1111;

(M) a description of how the local educational agency will involve parents and the community in the program in order to raise academic achievement;

(N) a description of how the local educational agency will acquire any needed technical assistance that is aligned with the curriculum of the agency for the program, from the State educational agency or other entities with demonstrated success in using the curriculum; and

(O) a description of the supplemental educational and related services that the local educational agency will provide to students not meeting State academic standards and a description of the additional or alternative programs (other than summer academic enrichment programs) that the local educational agency will provide to students who continue to fail to meet State academic standards, after participating in such programs.

(c) Priority.—In making grants under this section, the Secretary shall give priority to applicants who demonstrate a high level of need for the summer academic enrichment programs.

(d) Federal Share.—

(1) In General.—The Federal share of the cost described in subsection (a) is 50 percent.
“(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

SEC. 6307. REPORTS.

“(a) STATE REPORTS.—Each State educational agency that receives a grant under this part shall submit to the Secretary a report describing—

(1) the methods the State educational agency used to make grants to eligible local educational agencies and to provide assistance to schools under this part;

(2) the specific measurable goals and objectives described in section 6306(c)(2)(A) for each of the local educational agencies receiving a grant under this part and the extent to which each of the goals met; the objectives in the preceding year;

(3) the steps that the State will take to ensure that any local educational agency that did not meet the goals and objectives in that year will not meet the goals and objectives in the year following the submission of the report or the plan that the State has for revoking the grant under this part; and

(4) the development and administration of the interim tests used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data if—

(i) the information is not used to sell or advertise another product; and

(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

(b) PARENTAL CONSENT.—

(1) DISCLOSURE.—A State educational agency or local educational agency that is a recipient of funds under this Act shall make a written disclosure to the parent or entity to whom the data or information is furnished or to whom the data or information will be disclosed, at least annually and within a reasonable period of time after any change in the consent requirements contained in this part, of—

(A) the data or information to be collected; and

(B) the person or entity to whom the data or information will be disclosed, if any, that will be consumed by the collection activities; and

(2) the specific measurable goals and objectives in that preceding year; and

(3) with respect to any particular data or information gathering or disclosure, the agency provides written notice to all parents of—

(A) the data or information to be collected;

(B) the person or entity to whom the data or information will be disclosed, if any, that will be consumed by the collection activities; and

(D) the manner in which the person or entity will use the data or information.

SEC. 6306. SUPPLEMENT NOT SUPPLANT.

The authority provided by this part shall not supplant other Federal, State, and local policies, if any.

SEC. 6308. ADMINISTRATION.

The Secretary shall—

(a) establish, or enter into a cooperative agreement with, one or more State educational agencies to develop and administer such guidelines; and

(b) annually assess the extent to which the guidelines successfully protect the commercial interests of the person who provided the data or information.

SEC. 6309. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $25,000,000 for each of fiscal years 2002 through 2004.

SEC. 6310. TERMINATION.

The authority provided by this part terminates at the date of enactment of the Better Education for Students and Teachers Act.

PART D—INCREASING PARENTAL INVOLVEMENT AND PROTECTING STUDENT PRIVACY

SEC. 6401. INTENT.

It is the purpose of this part to provide for increased parental involvement and to protect the privacy of students.
subsection analysis and public release of aggregate data.

(5) The sale by students of products or services to raise funds for school- or education-related activities.

(6) Student recognition programs.

(d) INFORMATION ACTIVITIES BY THE SECRETARY.—Once each year, the Secretary shall inform each State educational agency and each local educational agency of the educational agency's obligations under section 438 of the General Education Amendments Act (added by the Family Educational Rights and Privacy Act of 1974; 20 U.S.C. 1232g) and the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.).

(e) FUNDING.—A State educational agency or local educational agency may use funds provided under part B of title V of the Elementary and Secondary Education Act of 1965 to enhance parental involvement in areas affecting children's in-school privacy.

(f) DEFINITIONS.—In this section, the terms ‘elementary school’, ‘local educational agency’, ‘Secretary’, and ‘State educational agency’ have the meanings given them in section 3 of the Elementary and Secondary Education Act of 1965.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

SEC. 7110. PROGRAMS.

Title VII (20 U.S.C. 7401 et seq.) is amended to read as follows:

"TITILE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

PART A—INDIAN EDUCATION

"SEC. 7111. PURPOSE.

"(a) 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 student performance standards that are used for all students; and

"(2) are designed to assist Indian students to meet those standards.

"(b) PROGRAMS.—This paragraph contains the following subpart: (1) by authorizing programs of direct assistance for—

"(1) meeting 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.

"(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 I—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 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 educational 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 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 for that Indian tribe, the amount that represents not less than 50 percent 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 the school as if the school were a local educational agency for purposes of making grants under this subpart in an amount that is not less than $3,000.

"(3) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

"(4) 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 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.

"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 describe and be a part 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 of Indian students served;

"(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 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 develop and implement this program 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) ROYALTY.—Each application submitted under subsection (a) shall include assurances that—

"(1) the local educational agency will use funds made available 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) describe 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;

"(4) 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 served by the local educational agency is providing an education;

"(B) will use the best available talents and resources, including individuals from the Indian community;

"(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 an 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) appropriate, Indian students attending secondary schools;

"(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) that, with respect to an application describing a schoolwide program carried out in accordance with this Act, 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 agencies by such bylaws.

"SEC. 7115. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this Act for a demonstration project for the integration of education and related services provided to Indian students;

"(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 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 pathways 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 purposes 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 available under such agency under this subpart to support a schoolwide program under section 7114 if—

"(1) the committee 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 7114.

"(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 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 to 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 use of which the services are to be integrated and delivered and the results expected from the plan;

"(5) identify the projected expenditures under the plan for each budget year after the first year of the plan;

"(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 APPROVAL.—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 shall set a time period for the completion of the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal regulations, policies, or procedures necessary to enable the agency to fulfill responsibilities for safeguarding Federal funds and the actual administrative costs of the 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.

(f) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—Within 90 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.

(g) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency for a demonstration project shall include—

(1) to require the submission 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 and expenditures of the project, which shall be used by an eligible entity to report on all project expenditures;

(2) to maintain a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(3) to provide 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.

(h) REPORT REQUIREMENTS.—The reports shall be consistent with the requirements of this section, and shall include—

(1) the Secretary 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 by the entity's approved plan, including the demonstration of student achievement; and

"(B) provide assurances to the Secretary of Education that the eligible entity has complied with all directly applicable statutory requirements with those directly applicable regulatory requirements that have not been waived.

(2) RECORD INFORMATION.—The Secretary shall require that records maintained at the local agency for a demonstration project shall contain the information and provide the assurances described in paragraph (2).

(3) NO REDUPLICATION.—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.

(i) 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.

(j) 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 submission of separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized. The Secretary of Education shall make regulations as necessary to carry out this section.

(3) RECORD INFORMATION.—The Secretary shall require that the reports shall—

"(A) be submitted to the Secretary of Education in a format consistent with the provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

"(B) report information supplied; and

"(ii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

"(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

"(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

"(iv) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

(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.

(j) MONITORING AND EVALUATION REVIEW.—

(1) IN GENERAL.—The Secretary shall conduct a monitoring and evaluation review of the performance of the eligible entity, including an audit to determine the proportion of Federal funds properly spent for Federal audit purposes, if the eligible entity has not provided such an audit.

(2) AUDITS.—The eligible entity shall determine the proportion of Federal funds properly spent for Federal audit purposes, if the eligible entity has not provided such an audit.

(3) Other.—The eligible entity shall determine the proportion of Federal funds properly spent for Federal audit purposes, if the eligible entity has not provided such an audit.

(k) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall provide assurance to the Secretary that the plan will be utilized under 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 submission of separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized. The Secretary of Education shall make regulations as necessary to carry out this section.

(3) RECORD INFORMATION.—The Secretary shall require that the reports shall—

"(A) be submitted to the Secretary of Education in a format consistent with the provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

"(B) report information supplied; and

"(ii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

"(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

"(iv) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians;

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians.

(j) MONITORING AND EVALUATION REVIEW.—

(1) IN GENERAL.—The Secretary shall conduct a monitoring and evaluation review of the performance of the eligible entity, including an audit to determine the proportion of Federal funds properly spent for Federal audit purposes, if the eligible entity has not provided such an audit.

(2) AUDITS.—The eligible entity shall determine the proportion of Federal funds properly spent for Federal audit purposes, if the eligible entity has not provided such an audit.

(3) Other.—The eligible entity shall determine the proportion of Federal funds properly spent for Federal audit purposes, if the eligible entity has not provided such an audit.

(k) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall provide assurance to the Secretary that the plan will be utilized under 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.
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.

(4) GRANTS AUTHORIZED.—(A) 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) and (b) of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography; bilingual and bicultural programs and projects; special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children; and special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or return to school, and to increase the rate of secondary school graduation for Indian children.

(d) REALLOCATIONS.—The Secretary may reallocate, in the case of a fiscal year to which 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 comments 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 designed 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 or secondary school for Indian children, Indian tribe, or Indian organization (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) and (b) of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography; bilingual and bicultural programs and projects; special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children; and special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or return to school, and to increase the rate of secondary school graduation for Indian children.

(2) Dissemination grants.—

(A) In general.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (a) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(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.

(4) Reimbursement.—The Secretary shall, whenever practicable, reimburse a local educational agency for anyportion of the unreimbursed expenses incurred by the agency in the presentation of any activity described in this paragraph, including planning, development, pilot operation, or demonstration of any activity described in this paragraph.
(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.

(2) APPLICATION.—(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit to the Secretary at such time and in such manner as the Secretary may require a—

(i) 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; and

(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 curriculum of the program involved once the grant period is over; and

(v) 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 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 (a) to enable such entities to carry out the activities described in paragraph (1).

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—A grant 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) EQUITABLE ACCESS.—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 consider the eligibility to receive a grant under subsection (c) on the basis of—

(A) the number of previous grants the Secretary has awarded such entity; and

(B) the length of any period during which such entity received such grants.

(g) GRANT PERIOD.—Each grant awarded under subsection (c) shall be for a period of activities of not more than 5 years.

(h) SERVICE OBILIGATION.—

(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives in-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.

(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which an eligible entity to which a grant shall be made shall provide 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.

(3) USE.—(A) IN-SERVICE TRAINING.—A consortium that receives a grant under paragraph (1) shall use the grant funds 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, or in schools, in order to better meet the needs of those children.

(2) PAYMENT TO INSTITUTIONS IN LIEU OF SUBSISTENCE.—Not more than 10 percent of the funds provided to an eligible entity under this section may be used to provide financial assistance under this section—

(A) to cover the cost of a fellowship; and

(B) for subsistence of such students and dependents.

SEC. 7123. GIFTED AND TALENTED INDIAN STUDENTS.

(a) GRANTS AUTHORIZED.—In addition to the grants authorized by section 7153 to this subsection, 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) have been adequately reviewed;

(B) have demonstrated educational merit; and

(C) can be replicated;

(2) a program that results in a graduate degree; or

(3) a program that results in a postbaccalaureate degree in medicine, clinical psychology, law, education, or a related field; or

(3) 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 funded programs.

(c) PAYMENTS TO INSTITUTIONS.—The Secretary shall pay to the institutions of higher education at which such a fellow is performing an activity that is pursuant to 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 notify any 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 who are enrolled in a program in counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) SERVICE OBILIGATION.—

(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 part of such assistance.

(f) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of a grant under subsection (a) shall report to the Secretary at such time and in such manner as the Secretary shall require.

(g) PREFERENCE FOR INDIAN APPLICANTS.—In applying section 7153 to this subsection, the Secretary shall give a preference to any application that includes 1 or more of the entities described in that 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—

(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) to other eligible entities to promote the development and implementation of successful programs of gifted and talented education.
“(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 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 psychological social 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 progress toward meeting the educational needs of such gifted and talented children, including—
“(i) demonstrations 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 described in paragraph (1) that the Secretary determines to be needed to enable such children to benefit from the project;
“(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 for 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 furnished in subsection (A).

“(c) APPLICATION FOR GRANT.—
“(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit 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 include—
“(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.

“(d) ADDITIONAL GRANTS.—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, in the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;
“(B) provides for consultation with 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.

“(e) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Education Amendments of 1978.

“(f) 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 develop the effectiveness of programs and strategies 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 adult Indians; and
“(B) the provision of opportunities to all Indians 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 evaluation of the programs to demonstrate 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 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 concerning such matters as the Secretary may prescribe in regulations.

“(2) CONTENTS.—Each application described in paragraph (1) shall contain—

“(A) a description and briefing of 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 conducted.

“(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational institutions and organizations.

“(e) 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 by 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 fund- ing and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this paragraph—

“(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 important 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) recommending 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 APPLI- CANTS.

“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—

“(A) Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

SEC. 7154. MINIMUM GRANT CRITERIA.

“The Secretary may only 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 the findings.

Subpart 6—Definitions; Authorizations of Appropriations

SEC. 7161. DEFINITIONS.

“In this part:
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 its role in the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–190 (107 Stat. 150).

(6) In 1919, the joint resolution entitled ‘Joint Resolution to provide for annexing the Hawaiian Islands to the United States’, approved July 7, 1998 (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 therefrom would 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 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 seek 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 22, 1938 (52 Stat. 781, chapter 138; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a, 396d), the 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 Hawaii into the Union’, the United States also ceded to the State of Hawaii 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 be set aside for Native Hawaiians in accordance with their own spiritual and traditional beliefs, customs, practices, language, and history by providing a Hawaiian education program and using community resources in the development of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

(11) In 1959, under the Act entitled ‘An Act to provide for the admission of the State of Hawaii into the Union’, the United States also ceded to the State of Hawaii 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 be set aside for Native Hawaiians in accordance with their own spiritual and traditional beliefs, customs, practices, language, and history by providing a Hawaiian education program and using community resources in the development 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 the State of Hawai‘i for the betterment of the conditions of Native Hawaiians, as determined by United States law.

(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. 231 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. 4001 et seq.);

(H) the Workforce Investment Act of 1998 (29 U.S.C. 2912 et seq.);

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(14) In 1961, 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 1968, and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, 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 1968, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1968 (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 1968 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians, 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;

(iii) high rates of births to teenage parents;

(B) Native Hawaiian students continue to begin their school experience lagging behind other students in 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; and

(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs due to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities.

(17) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed 4 or more years of college.

(18) 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—

(a) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in school;

(b) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawaii; and

(c) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

(19) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawaii Department of Education, and there are and will continue to be geographically isolated areas with a high Native Hawaiian population density.

(20) In 1998 National Assessment of Educational Progress, Native Hawaiian fourth-graders scored among the lowest groups of students nationally in reading, and that Native Hawaiian students continue to be disproportionately absent in secondary school; and

(21) 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.

(22) 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. The purposes of this part are to—

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 planning resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection; “(3) develop 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.—

(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.—The members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians of the appropriate education service agencies. In addition, a representative of the State of Hawai’i Office of Hawaiian Affairs shall serve as a member of the Education Council.

(2) The members of the Education Council shall be appointed by the Secretary based on recommendations received from the appropriate communities.

(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 members 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 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 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; “(4) make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraph (1) through (3); “(5) report on Education Council activities; and “(6) other additional duties of the Education Council.

(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 considers necessary 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 administrative needs of each island council.

(4) Establishment of Island Councils.—

“(1) In General.—In order to better effectuate the purposes of this part and to ensure the adequate representation of islands and cultural interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian island councils (referred to individually in this part as an ‘island council’) for the following islands: “(A) Hawai’i. “(B) Moloka’i. “(C) Lana’i. “(D) Maui. “(E) Kaua’i. “(F) N’Hau. “(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 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.

(5) Administration of 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 this part shall apply to the Education Council and each island council.

(h) Compensation.—Members of the Education Council and each island council shall receive any compensation for service on the Education Council and each island council, respectively.

(1) report.—Not later than 4 years after the date of enactment of the Better Education for Students 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.

(2) 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 pursuant to subsection (f) of this section 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.

(b) 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 the following needs: “(A) beginning reading and literacy among students in kindergarten through third grade; “(B) the needs of at-risk youth; “(C) needs in fields or disciplines in which Native Hawaiians are underrepresented; and “(D) the use of the Hawaiian language in instruction.

(2) 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 kindergarten through third 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 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 adolescents, 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) 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; “(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and that provide early childhood education 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 discretion of the Secretary, to students entering professions in which Native Hawaiians are underrepresented;

(ii) family literacy services;

(iii) authorizes support services for students receiving scholarship assistance;

(iv) counseling and guidance for Native Hawaiian students who have the potential to receive scholarships; and

(v) faculty development activities designed to promote the matriculation of Native Hawaiian students.

(4) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults.

(5) Special Rule and Conditions.

(A) Institutions Outside Hawaii.—The Secretary shall not establish a policy under this section for Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawaii from receiving a scholarship pursuant to paragraph (2)(f).

(B) Scholarship Conditions.—The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (f)(1). The conditions should ensure 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.

(C) Administrative Costs.—No more than 5 percent of funds provided to a grant recipient under this section for any fiscal year may be used for administrative purposes.

(D) Authorization of Appropriations.—There are authorized to be appropriations to carry out this section $35,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years. Funds appropriated under this section 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—

(A) a citizen of the United States; and

(B) is an original inhabitant of the State of Hawaii.

(2) Office of Hawaiian Affairs.—The term ‘Office of Hawaiian Affairs’ means the office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(3) Alaska Native.—The term ‘Alaska Native’ means any individual who—

(A) is an original inhabitant of Alaska or is the descendent of an original inhabitant of Alaska; and

(B) is an Alaska Native student.

(4) 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 Native youth are underrepresented among holders of degrees from institutions of higher education 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 education, and are being condemned to an underclass status and a life of limited choices.

(5) The programs authorized in this title, combined with explicit support from the State and local agencies, and with the support of local communities, will help to ensure that Native students will be successful in school and emerge as productive citizens.

(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural Alaska and Alaska villages should not be viewed as a hindrance to the development and implementation of innovative, model programs in a variety of areas.

(7) Congress finds that Native children should not have to wait until they reach high school to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and underwritten within the Alaska Native community to improve educational opportunity for all students.

SEC. 7203. 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) provide 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. 7204. 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, cultural community-based organizations with experience in developing or operating programs to benefit Alaska Natives, and consortia of organizations and entities engaged in activities described in 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 educational achievement of Alaska Natives;

(B) the development of curricula and educational programs that address the educational needs of Alaska Native students, including curriculum materials that reflect the cultural diversity or the contributions of Alaska Native communities;

(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 pre-school 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) authorizations of appropriations that—

(i) are provided to 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.
“(d) a cultural exchange program operated by the Alaska Humanities Forum and designed to share the Alaska Native culture with students;”

“(M) a cultural exchange program operated by the Alaska Humanities Forum and designed to share the Alaska Native culture with urban students in a rural setting, which shall be known as the Rose Cultural Exchange Program;”

“(N) a cultural exchange program operated by a recognized tribe, consortium of tribes, regional Native American councils under 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—IMPACT AID

SEC. 801. ELIGIBILITY UNDER SECTION 8003 FOR CERTAIN HISTORICALLY DISADVANTAGED LOCAL EDUCATIONAL AGENCIES.

(a) ELIGIBILITY.—Section 8003(b)(2)(C) (20 U.S.C. 7703(b)(2)(C)) is amended—


“TITLE IX—REPEALS

SEC. 901. REPEALS.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Titles IX through XIV (20 U.S.C. 7801 et seq., 8001 et seq.) are repealed.


TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. INDEPENDENT EVALUATION.

The Act (20 U.S.C. 6201 et seq.) is amended by section 901(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 of the National Research Council of the National Academy of Sciences to enable the Board to conduct, in consultation with the Department (and other appropriate agencies, if 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, with the concurrence of 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 subsection 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—

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(1) 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;
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(2) differences in student post-assessment outcomes, including admission to, and signs of success (such as reduced need for remediation services) at colleges, community colleges, or technical school training programs;
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(3) 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;
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(4) changes in levels of involvement of students and families of limited English proficient students, and racial and ethnic minority students, independently and as compared to middle or high socio-economic status students, nondisabled English proficient students, and white students, including—
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(A) the overall improvement or decline in academic achievement for such students;
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(B) the numbers and characteristics of such students excusing from taking the assessments, and the number and type of modifications and accommodations extended to such students;
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(C) changes in the rate of referral of such students to special education;
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(D) changes in attendance patterns and dropout and graduation rates for such students;
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(E) changes in rates at which such students are retained in grade level;
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(F) changes in rates of transfer of such students to other schools or institutions; and
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(G) changes in the frequency of referrals for enrichment opportunities, remedial measures, and other consequences;
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(5) increases in participation of parents and families of students with disabilities, 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.
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**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:

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(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.
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(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.
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(3) 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.
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**PART B—TRANSITION PROVISION**

**SEC. 9201. CERTAIN MULTIYEAR GRANTS AND CONTRACTS.**

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(a) IN GENERAL. Notwithstanding any other provision of this Act, from funds appropriated under subsection (b) the Secretary shall continue to fund a 1-year grant or contract awarded under section 3111 or part A or C of title XIII (as such section or part was in effect on the day preceding the date of the enactment of the Better Education for Students and Teachers Act) for the duration of the multiyear award.
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(b) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out subsection (a).
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**SEC. 9202. HELPING CHILDREN SUCCEED BY FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).**

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(a) FINDINGS. Congress makes the following findings:
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(1) All children deserve a quality education.
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(3) 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 ensure that 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 actual per-pupil expenditure for each child with a disability served.
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(4) Before 1975, only 1/2 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.
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(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,000,000 children 6 to 21 years of age.
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(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.
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(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.
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(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.
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(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.
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(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.
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(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.
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(12) Changes made in IDEA 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.
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(13) IDEA requires a full partnership between parents of children with disabilities and educational professionals in the design and implementation of the educational services provided to children with disabilities.
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(14) While the Federal Government has more than doubled funding for IDEA since 1995, the Federal Government has never provided more than 15 percent of the maximum State grant allocation for educating children with disabilities.
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(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.
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**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. 1433(a)(2)(C)) is amended to read as follows:
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(1) ‘Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which
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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 received 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.  

(u) Notwithstanding clause (i), if the Secretary determines that the 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(i) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(i)) is amended to read as follows:  

"(1) $2,685,650,000 for fiscal year 2002;  

(2) $1,123,685,000 for fiscal year 2003;  

(3) $1,123,685,000 for fiscal year 2004;  

(4) $1,123,685,000 for fiscal year 2005;  

(5) $1,123,685,000 for fiscal year 2006;  

(6) not more than $2,067,600,000, 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 $2,742,019,000, 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 $2,423,068,000, 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 $2,095,622,000, 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 $2,731,456,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2011.”


(a) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should appropriate $3,000,000,000 for fiscal year 2002 to carry out part A of title II of the Elementary and Secondary Education Act of 1965 and thereby—  

(1) provide that schools, local educational agencies, and States have the resources they need to put a highly qualified teacher in every classroom in each school in which 50 percent or more of the children are from low income families, over the next 4 years;  

(2) provide 125,000 new teachers with mentors and year-long supervised internships; and  

(3) provide high quality pedagogical training for every teacher in every school.  

(b) REQUIRED PARTNERSHIP.—A local educational agency—  

(1) shall carry out activities under title II of the Elementary and Secondary Education Act of 1965;  

(2) shall ensure that a substantial portion of funds appropriated to carry out part A of title II of the Elementary and Secondary Education Act of 1965 are awarded on a competitive basis to local educational agencies, and States have the resources they need to put a highly qualified teacher in every classroom in each school in which 50 percent or more of the children are from low income families, over the next 4 years;  

(3) provide 125,000 new teachers with mentors and year-long supervised internships; and  

(4) provide high quality pedagogical training for every teacher in every school;  

(5) carry out activities under title II of the Elementary and Secondary Education Act of 1965;  

(6) $750,000,000 for fiscal year 2002 to carry out part A and part D of title III of the Elementary and Secondary Education Act of 1965 and thereby—  

(1) $1,100,000,000 for fiscal year 2003;  

(2) $1,400,000,000 for fiscal year 2004;  

(3) $1,700,000,000 for fiscal year 2005;  

(4) $2,000,000,000 for fiscal year 2006;  

(5) $2,400,000,000 for fiscal year 2007; and  

(6) $2,800,000,000 for fiscal year 2008.  

SEC. 1007. GRANTS FOR THE TEACHING OF TRADITION AL AMERICAN HISTORY AS A SEPARATE SUBJECT.  

Title IX (as added by section 1001) is amended by adding at the end the following:  

"PART C—TEACHING OF TRADITIONAL AMERICAN HISTORY  

"SEC. 9301. GRANTS FOR THE TEACHING OF TRADITIONAL AMERICAN HISTORY AS A SEPARATE SUBJECT.  

"(a) IN GENERAL.—There are authorized to be appropriated $100,000,000 to enable the Secretary to establish and implement a program to be known as the ‘Teaching of Traditional American History Grant Program’ under which the Secretary shall award grants on a competitive basis to local educational agencies for activities to promote the teaching of traditional American history in schools as a separate subject; and  

"(b) for the development, implementation, and strengthening of programs to teach American history as a separate subject (not as a component of social studies) within the school curricula, including the implementation of activities to improve the quality of instruction and to provide professional development and teacher education activities with respect to American history.  

"(c) REQUIRED PARTNERSHIP.—A local educational agency that receives a grant under subsection (a) shall carry out activities under the grant in partnership with 1 or more of the following:  

"(1) An institution of higher education.  

"(2) A non-profit history or humanities organization.  

"(3) A library or museum.”

SEC. 1008. STUDY AND INFORMATION.  

(a) STUDY.—  

(1) IN GENERAL.—The Director of the National Institutes of Health and the Secretary of Education shall jointly—  

(2) conduct a study regarding how exposure to violent entertainment (such as movies, music,
PART D—EXCELLENCE IN ECONOMIC EDUCATION

SEC. 9401. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This part may be cited as "Excellence in Economic Education Act of 2001." 

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

(1) The need for economic literacy in the United States has grown exponentially in the 1990’s as a result of rapid technological advancements and increasing globalization, giving individuals in the United States a more complex and dynamic economic marketplace and complex economic and financial choices than ever before as members of the workforce, managers of their families’ resources, and voting citizens.

(2) Studies show that many individuals in the United States lack essential knowledge in personal finance and economic literacy.

(3) A 1998-1999 test conducted by the National Council on Economic Education pointed out that many individuals in the United States believe that there is a need for our Nation’s youth to possess an understanding of personal finance and economic principles, with 96 percent of adults tested believing that basic economics should be taught in secondary school.

SEC. 9402. EXCELLENCE IN ECONOMIC EDUCATION.

(a) PURPOSE.—The purpose of this part is to promote economic literacy among all United States students in kindergarten through grade 12 by awarding a competitive grant to a national nonprofit educational organization to encourage the improvement of the quality of student understanding of personal finance and economics.

(b) GOALS.—The goals of this part are—

(1) to increase knowledge of and achievement in economics to enable the students to become more productive and informed citizens;

(2) to strengthen teachers’ understanding of and competency in economics to enable the teachers to increase student mastery of economic principles and their practical application;

(3) to encourage economic education research and development, to disseminate effective instructional materials, and to promote replication of best practices and exemplary programs that foster economic literacy;

(4) to assist States in measuring the impact of education in economics, which is 1 of 9 national core content in section 306(c) of the Goals 2000: Educate America Act (20 U.S.C. 5866(c)); and

(5) to leverage and expand private and public support for economic partnerships at national, State, and local levels.

SEC. 9403. GRANT PROGRAM AUTHORIZED.

(a) COMPETITIVE GRANT PROGRAM FOR EXCELLENCE IN ECONOMIC EDUCATION.—

(1) IN GENERAL.—The Secretary is authorized to award a competitive grant to a national nonprofit educational organization that has as its primary purpose the promotion and improvement of the quality of student understanding of personal finance and economics through effective teaching of economics in the Nation’s classrooms (referred to in this section as a recipient). The grant shall be awarded for a fiscal year to each recipient.

(2) USE OF GRANT FUNDS.—

(A) ONE-QUARTER.—The grantee shall use 1/4 of the funds made available through the grant and not reserved under subsection (f) for a fiscal year—

(i) to strengthen and expand the grantee’s relationships with local and State personal finance, entrepreneurial, and economic education organizations;

(ii) to support and promote training, of teachers and students to grade 12, regarding economics, including the dissemination of information on effective practices and research findings regarding the teaching of economics;

(iii) to support research on effective teaching practices and the development of assessment instruments to document student performance; and

(iv) to develop and disseminate appropriate materials to foster economic literacy.

(B) THREE-QUARTERS.—The grantee shall use 3/4 of the funds made available through the grant for a fiscal year to award grants to States and local educational agencies for local economic, personal finance, or entrepreneurial education organizations (which shall be referred to in this section as a recipient). The grantee shall divide the funds among the recipients, awarding each a share of the cost of enabling the recipient to work in partnership with 1 or more of the entities described in paragraph (3) for 1 or more of the purposes set forth in paragraph (2) (i) through (iv).

(3) NATIONAL PARTNERSHIP ENTITIES.—The Secretary may enter into a national partnership with 1 or more of the entities described in paragraph (3) for 1 or more of the purposes set forth in paragraph (2) (i) through (iv)

(4) ADMINISTRATIVE COSTS.—The grantee shall, in administering the grants awarded under this section, exclude from the amount available for award to each recipient—

(A) $1,500,000,000 for fiscal year 2007; and

(B) $4,000,000,000 for fiscal year 2008.

SEC. 101. EXCELLENCE IN ECONOMIC EDUCATION.

Title IX, as added by section 1001, is further amended by adding at the end the following:
"(2) NON-FEDERAL SHARE.—The non-Federal share may be paid in cash or in kind, fairly evaluated, including plant, equipment, or services.

(d) APPLICATIONS.—

(1) GRANTEE.—To be eligible to receive a grant under this section, the grantee shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) REQUIREMENTS.—To be eligible to receive a grant under this section, the application shall demonstrate that the project described in the application is consistent with the requirements of this section and is necessary to the achievement of the objectives of the project.

(e) REVIEW.—The grantee shall submit the application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(f) INDIVIDUALS.—The individuals referred to in paragraph (B) are determined to be necessary, especially members of the State and local business, banking, and financial community.

(1) SUPPLEMENT AND NOT SUPPLANT.—Funds appropriated under this section shall be used to supplement and not supplant other Federal, State, and local funds expended for the purpose described in this section.

(g) REPORT.—The Secretary shall report on the progress of the project to Congress.

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1087j) is amended—

(1) in subsection (b)(1), by inserting ‘‘subsection (b)(1)(A)(i)’’ before ‘‘subsection (b)(1)(A)’’;

(2) in subsection (f), by striking ‘‘subsection (b)(1)(A)’’ and inserting ‘‘subsection (b)(1)(A)(i)’’; and

(3) in subsection (g)(1)(A), by striking ‘‘subsection (b)(1)(A)’’ and inserting ‘‘subsection (b)(1)(A)(i)’’.

(c) DIRECT STUDENT LOAN FORGIVENESS.—Section 460 of the Higher Education Act of 1965 (20 U.S.C. 1078–1) is amended—

(1) to read as follows:

"'(g) 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 forgiveness under this section not later than 2 years after the date funds are first appropriated under subsection (h) and every 2 years thereafter.

(b) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary for fiscal year 2002, and succeeding fiscal years to carry out loan forgiveness under this section for Perkins loan recipients who teach in such a school.

(2) in subsection (A), by striking ‘‘subsection (b)(1)(A)’’ and inserting ‘‘subsection (b)(1)(A)(i)’’;

(3) in subsection (b), by inserting ‘‘except as part of the term ‘program year’,’’ before ‘‘where’’;

(d) DIRECT STUDENT LOAN FORGIVENESS.—

SEC. 1014. SENSE OF THE SENATE CONCERNING POSTAL RATES FOR EDUCATIONAL MATERIALS.

(a) FINDINGS.—The Senate finds that—

(1) the President and Congress both agree that education is of the highest domestic priority;

(2) access to education is a basic right for all Americans regardless of age, race, economic status, geographic boundary, or other class of mail and threatens the affordable access to educational materials and early childhood development programs that are critical to promoting literacy and preparing students for school.

(3) reading is the foundation of all educational pursuits;

(4) the objective of schools, libraries, literacy programs, and early childhood development programs is to promote reading skills and prepare individuals for a productive role in our society;

(5) individuals involved in the activities described in this paragraph are most likely to be drawn into negative social behavior such as alcohol and drug abuse and criminal activity;

(6) a highly educated workforce in America is directly tied to a strong economy and our national security;

(7) the increase in postal rates by the United States Postal Service in the year 2000 for such educational materials sent as second class mail was substantially more than the increase for any other class of mail and threatens the affordability and future distribution of such materials;

(8) failure to provide affordable access to reading materials would seriously limit the fair and universal distribution of books and classroom publications to schools, libraries, literacy programs, and early childhood development programs; and

(9) the Postal Service has the discretionary authority to set postal rates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, since educational materials sent to schools, libraries, literacy programs, and early childhood development programs received the highest postal rate increase for 2000, the United States Postal Service should freeze the rates for those materials.
SEC. 1015. THE STUDY OF THE DECLARATION OF INDEPENDENCE, UNITED STATES CONSTITUTION, AND THE FEDERALIST PAPERS.

It is the sense of Congress that—
(1) State and local governments and local educational agencies are encouraged to dedicate at least 2 days of learning to the study and understanding of the significance of the Declaration of Independence, the United States Constitution, and the Federalist Papers; and
(2) State and local governments and educational agencies are encouraged to include a requirement that, before receiving a certificate or diploma of graduation from secondary school, students demonstrate competency in understanding the Declaration of Independence, the United States Constitution, and the Federalist Papers.

SEC. 1016. STUDY AND RECOMMENDATION WITH RESPECT TO SEXUAL ABUSE IN SCHOOLS.

(a) FINDINGS.—Congress finds that—
(1) sexual abuse in schools between a student and a member of the school staff or a student and another student is a cause for concern in the United States;
(2) relatively few studies have been conducted on sexual abuse in schools and the extent of this problem is unknown;
(3) according to the Child Abuse and Neglect Reporting Act, a school administrator is required to report any allegation of sexual abuse to the appropriate authorities;
(4) an individual who is falsely accused of sexual misconduct with a student deserves appropriate legal and professional protections;
(5) it is estimated that many cases of sexual abuse in schools are not reported; and
(6) many of the accused staff quietly resign at their present school district and are then rehired at a new district which has no knowledge of their alleged abuse.

(b) STUDY AND RECOMMENDATIONS.—The Secretary of Education in conjunction with the Attorney General shall provide for the conduct of a comprehensive study of the prevalence of sexual abuse in schools. Not later than May 1, 2002, the Secretary and the Attorney General shall prepare and submit to the appropriate committees of Congress and to State and local governments, a report concerning the study conducted under this subsection, including recommendations and legislative remedies for the problem of sexual abuse in schools.

SEC. 1017.SENSE OF THE SENATE ON THE PERCENTAGE OF FEDERAL EDUCATION FUNDING THAT IS SPENT IN THE CLASSROOM.

(a) FINDINGS.—The Senate makes the following findings:
(1) Effective and meaningful teaching begins with the children.
(2) By 1998, the paper and data reporting requirements of the Department of Education amounted to 40,000,000 so-called “burden hours”, which is equivalent to nearly 20,000 people working 40 hours a week for one full year, time that could be better spent teaching children in the classroom.
(3) More than 50 percent of their education paper and historic qualities; classrooms.
(4) Several States have reported that although in 1998, 84 percent of the allocation of funds to elementary and secondary education in 1998 was allocated to States, universities, national programs, and other service providers, the percentage of elementary and secondary education, the States, and local educational agencies to work together to ensure that not less than 95 percent of all funds appropriated for education programs administered by the Department be spent to improve the academic achievement of our children in their classrooms.

(b) SENSE OF THE SENATE.—It is the sense of the Senate to urge the Department of Education, the States, and local educational agencies to work together to ensure that not less than 95 percent of all funds appropriated for elementary and secondary education programs administered by the Department be spent to improve the academic achievement of our children in their classrooms.

SEC. 1018.SENSE OF THE SENATE REGARDING BIBLICAL TEACHING IN PUBLIC SCHOOLS.

(a) FINDINGS.—The Senate finds that—
(1) the Bible is the best selling, most widely read, and most studied book in history;
(2) familiarity with the nature of religious beliefs is necessary to understanding history and contemporary events;
(3) the Bible is worthy of study for its literary and historical qualities;
(4) many public schools throughout America are currently teaching the Bible as literature and history; and
(5) according to the Department of Education, in 1998, 84 percent of the funds allocated by the Department for elementary and secondary education were allocated to local educational agencies and used for instructional support.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that in this Act or any provision of law shall discourage the teaching of the Bible in any public school or at any public expense as a literature and history book.

SEC. 1019. SENIOR OPPORTUNITIES.

(a) TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS.—Section 600(a)(2) (as amended in section 601(d)) is amended—
(1) in subparagraph (G), by striking “and” after the semicolon;
SEC. 1020. IMPACT AID PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

Section 8002 (20 U.S.C. 7702), as amended by section 1803 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398), is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and was eligible to receive a payment under section 2 of the Act of September 30, 1950” and inserting “or had biologically or legally been determined pursuant to law to have filed, a timely application and met, or has been determined pursuant to law to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950”;

(B) in subparagraph (B), by striking “(or if the local educational agency did not meet, or has not been determined pursuant to law to meet, the eligibility requirements of section 2(a)(1)(C) of the Act Of September 20, 1950, for fiscal year 1994,” and inserting “(or if the local educational agency did not meet, or has not been determined pursuant to law to meet, the eligibility requirements of section 2(a)(1)(C) of the Act Of September 20, 1950, for fiscal year 1994,”

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting before the period the following: “; or whose application for fiscal year 1995 was deemed by law to be timely filed for the purpose of payments for later years”;

(B) in subparagraph (B)(ii), by striking “for each local educational agency that received a payment under section 1801 of the Act of August 20, 1990” and inserting “for each local educational agency described in subparagraph (A)”;

(3) in paragraph (4)(B)—

(A) by striking “in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii)” and inserting “(by dividing the maximum amount that such agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies)”;

(B) by striking “; except that for the purpose of calculating a local educational agency’s assessed value of the Federal property,” and inserting “; except that, for the purpose of calculating a local educational agency’s maximum amount under subsection (b).”

(b) CALCULATION OF PAYMENT UNDER SECTION 8003 FOR SMALL LOCAL EDUCATIONAL AGENCIES.—Section 8003(b)(3)(B)(iv) (20 U.S.C. 7703(b)(3)(B)(iv)) (as amended by section 1806(b)(2)(C) of the Impact Aid Reauthorization Act of 2000 (as enacted into law by section I of Public Law 106-398)) is amended by inserting after “of the Act in which the agency is located” the following: “or less than the average per pupil expenditure of all the States.”

(c) STATE-LEVEL PAYMENTS IN PROVIDING STATE AID.—Section 8006(b)(1) (20 U.S.C. 7709 (b)(1)) (as amended by section 1812(b)(1) of the Impact Aid Reauthorization Act of 2000 (as enacted into law by section 1 of Public Law 106-398)) is amended by inserting after “section 8003(a)(2)(B)(i)” the following: “; and, with respect to a local educational agency that receives a payment under section 8003(b)(2)(C), the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under paragraph (1) of section 8003(b)(3)(B)(iv).”

(d) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 8014 (20 U.S.C. 7714) (as amended by section 1817(b)(1) of the Impact Aid Reauthorization Act of 2000 (as enacted into law by section I of Public Law 106-398)) is amended by inserting “and that filed, or has been determined pursuant to law to have filed, a timely application and met, or has been determined pursuant to law to meet, the eligibility requirements of section 2(a)(1)(C) of the Act Of September 20, 1950, for fiscal year 1994,”

(1) in subparagraph (a), by striking “three succeeding” and inserting “six succeeding”;

(2) in subparagraph (b), by striking “three succeeding” and inserting “six succeeding”;

(3) in subparagraph (c), by striking “three succeeding” and inserting “six succeeding”;

(4) in subparagraph (d), by striking “three succeeding” and inserting “six succeeding”;

(5) in subparagraph (e), by striking “three succeeding” and inserting “six succeeding”;

(6) in subparagraph (f), by striking “three succeeding” and inserting “six succeeding”.

SEC. 1022. SENSE OF THE SENATE REGARDING SCIENCE EDUCATION.

It is the sense of the Senate that—

(1) good science education should prepare students to distinguish the data or testable theories of science from philosophical or religious claims that are made in the name of science; and

(2) where science is taught as a separate discipline, the curriculum should help students to understand why this subject generates so much continuing controversy, and should prepare the students to be informed participants in public discussions regarding the subject.

SEC. 1023. SCHOOL FACILITY MODERNIZATION GRANTS.

Subsection (a) of section 8007 (20 U.S.C. 7707(b)) (as amended by section 1811 of the Impact Aid Reauthorization Act of 2000 (as enacted into law by section I of Public Law 106-398)) is amended to read as follows:

“(9) SCHOOLS FACILITY MODERNIZATION GRANTS AUTHORIZED:

“(A) FUNDING AND ALLOCATION.—

“(A) FUNDING.—From amounts made available for a fiscal year under subparagraph (A), the Secretary shall allocate—

“(i) 10 percent of such amount for grants to local educational agencies described in paragraph (2)(A);

“(ii) 43 percent of such amount for grants to local educational agencies described in paragraph (2)(B), of which, 10 percent shall be available for emergency grants that shall not be subject to the requirements of subparagraphs (A) and (B) of paragraph (4); and

“(iii) 43 percent of such amount for grants to local educational agencies described in paragraph (2)(C), of which, 10 percent shall be available for emergency grants that shall be subject to the requirements of subparagraphs (A) and (B) of paragraph (4).

“(B) SPECIAL RULE.—A local educational agency described in clauses (ii) and (iii) of subparagraph (B) may use grant funds made available under this subsection for a school facility located on or near Federal property only if the school facility is located at a school where not less than 25 percent of the children in average daily attendance in the school for the preceding school year are children for which a determination is made under section 2(a)(1)(C) of the Act Of September 20, 1950, for fiscal year 1994, that filed, or has been determined pursuant to law to have filed, a timely application and met, or has been determined pursuant to law to meet, the eligibility requirements of section 2(a)(1)(C) of the Act Of September 20, 1950, for fiscal year 1994, for the school year preceding the school year for which the determination is made; or

“(C) ELIGIBILITY REQUIREMENTS.—A local educational agency eligible to receive funds under this subsection only if—

“(1) the local educational agency was not eligible to receive Federal assistance under section 8002(a) for the fiscal year and has an assessed value of taxable property per student in the school district that is less than the average of the assessed value of taxable property per student in the State in which the local educational agency is located;

“(2) such agency had an enrollment of children determined under section 8003(a)(1)(C) which constituted at least 25 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made; or

“(3) such agency had an enrollment of children determined under paragraphs (A), (B), and (D) of section 8003(a)(1) which constituted at least 25 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made;

“(4) in awarding grants under this subsection, the Secretary shall receive applications submitted with respect to each type of agency represented by local educational agencies that qualify under each of subparagraphs (A), (B), and (D) of section 8003(a) in evaluating an application, the Secretary shall consider the following criteria:
“(A) The extent to which the local educational agency lacks the fiscal capacity to undertake the modernization project without Federal assistance.

(B) The extent to which property in the local educational agency is nontaxable due to the presence of the Federal Government.

(C) The extent to which the local educational agency describes in paragraphs (A), (B), (C), and (D) of section 8003(a)(1).

(D) The need for modernization to meet—

(1) education that the condition of the school facility poses to the health, safety, and well-being of students;

(2) improving conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment; and

(3) improving results from actions of the Federal Government.

(E) The age of the school facility to be modernized.

(4) OTHER AWARD PROVISIONS.—

(A) AMOUNT.—In determining the amount of a grant awarded under this subsection; the Secretary shall consider the cost of the modernization of the local educational agency to produce sufficient funds to carry out the activities for which assistance is sought.

(B) FEDERAL SHARE.—The Federal funds provided under this subsection to a local educational agency shall not exceed 50 percent of the total cost of the project to be assisted under this subsection. A local educational agency may use in-kind contributions, excluding in-kind contributions, to meet the matching requirement of the preceding sentence.

(C) MAXIMUM GRANT.—A local educational agency described in this subsection may not receive a grant under this subsection in an amount that exceeds $2,000,000 during any 2-year period.

(5) APPLICATIONS.—A local educational agency that desires to receive a grant under this subsection shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain—

(A) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 8003(a)(1) in average daily attendance in each school;

(B) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located, excluding in-kind contributions;

(C) a description of how the local educational agency meets the award criteria under paragraph (3); and

(D) a description of the modernization to be supported with funds provided under this subsection;

(E) a cost estimate of the proposed modernization; and

(F) such other information and assurances as the Secretary may reasonably require.

(6) ELIGIBILITY CRITERIA.—

(A) APPLICATIONS.—Each local educational agency applying for a grant under paragraph (1)(B)(ii) or (1)(B)(iii) that desires a grant under this subsection shall have included in the application submitted under paragraph (5) a signed statement from an appropriate local official certifying that a health or safety emergency exists.

(B) SPECIAL RULES.—The Secretary shall give priority to local educational agencies applying for a grant under paragraph (1)(B)(ii) or (1)(B)(iii) that are those that have the highest number of percent of students who make every effort to meet fully the school facility needs of local educational agencies applying for a grant under paragraph (1)(B)(ii) or (1)(B)(iii) that desire a grant under this subsection shall include in the application submitted under paragraph (5) a signed statement from an appropriate local official certifying that a health or safety emergency exists.

(C) PRIORITY.—If the Secretary receives more than one application from local educational agencies described in paragraph (1)(B)(ii) or (1)(B)(iii) that desires a grant under this subsection, shall give priority to local educational agencies based on the severity of the emergency, as determined by the peer review group and the Secretary, and when the application was received.

(D) CONSIDERATION FOR FOLLOWING YEAR.—

(A) Local educational agency described in paragraph (2) that applies for a grant under this subsection for any fiscal year and does not receive the grant shall have the application for a grant under this subsection that is submitted for the following fiscal year, subject to the priority described in paragraph (C).

(7) GENERAL LIMITATIONS.—

(A) REAL PROPERTY.—No grant funds awarded under this subsection shall be used for the acquisition of any interest in real property.

(B) MATCHING.—In this subsection shall be construed to authorize the payment of maintenance costs in connection with any school facility modernized in whole or in part with Federal funds provided under this subsection.

(C) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this subsection shall comply with all relevant Federal, State, and local environmental laws and regulations.

(D) ATHLETIC AND SIMILAR SCHOOL FACILITIES.—No grant funds awarded under this subsection shall be used for athletic or other school facilities that are primarily used for athletic contests or exhibitions, or other events, for which admission is charged to the general public.

(E) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the modernization of school facilities used for educational purposes, and not to supplant such funds.

SEC. 1024. DEPARTMENT OF EDUCATION CAMPAIGN TO PROMOTE ACCESS OF ARMED FORCES RECRUITERS TO STUDENT DIRECTORY INFORMATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) Service in the Armed Forces of the United States is voluntary.

(2) Recruiting quality persons in the numbers necessary to maintain the strengths of the Armed Forces authorized by Congress is vital to the United States national defense.

(3) Recruiting new members is a very challenging, and as a result, an Armed Forces recruiter must devote extraordinary time and effort to their work in order to fulfill monthly requirements that include (i) the acquisition and use of a list of each school, if any, in that State that—

(A) during the 12 months preceding the date of enactment of this Act, has denied access to student directory information to a military recruiter; or

(B) has in effect a policy to deny access to students or to student directory information to military recruiters.

(2) EDUCATION PROGRAM.—

(A) IN GENERAL.—The Secretary of Education, in consultation with the Secretary of Defense, shall, not later than 90 days after the date of enactment of this Act, make awards to States and schools using no more than $3,000,000 of non-Federal funds available under the Elementary and Secondary Education Act to educate principals, school administrators, and other educators regarding career opportunities in the Armed Forces, and the access standard required under section 503 of title 10, United States Code.

(B) TARGETED SCHOOLS.—In selecting schools for awards required under subparagraph (A), the Secretary shall give priority to selecting schools that are included on the lists transmitted to Congress under paragraph (1).

SEC. 1025. MILITARY RECRUITING ON CAMPUS.

(1) DENIAL OF FUNDS.—

(1) PROHIBITION.—No funds available to the Department of Defense may be provided to any educational institution in grant or contract to any institution of higher education, that is accredited by an institution (including an institution not accredited by the American Bar Association) that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining military recruiting purposes:

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) EXCEPTION.—Institutions in paragraph (1) shall be exempt if they have a long-standing policy of pacifism based on historical religious affiliation.

(3) COVERED STUDENTS.—Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(2) PROCEDURES FOR DETERMINATION.—The Secretary of Defense shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).
SEC. 1026. MAINTAINING FUNDING FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611 of the Individuals with Disabilities Education Act is amended to add the following new subsection:

"(K) CONTINUATION OF AUTHORIZATION.—For fiscal years 2002 and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary for the purpose of carrying out this part, other than section 619.

SEC. 1027. RESCINDING SUPPORT FOR RESOURCES TO IMPLEMENT THE CONTROL AND SAFE STREETS ACT OF 1968.

(a) COPS PROGRAM.—Section 170(d)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 376d-8) is amended—

(1) in paragraph (7) by inserting "school officials," after "enforcement officers," and

(2) by striking paragraph (8) and inserting the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document drug, alcohol, and violence-related incidents, illegal use and possession of alcohol and the illegal possession, use, and distribution of drugs; ".

(b) SCHOOL RESOURCE OFFICER.—Section 1709(d)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 376d-8) is amended—

(1) by striking subparagraph (B) and inserting the following:

"(B) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document drug, alcohol, and violence-related incidents, illegal use and possession of alcohol and the illegal possession, use, and distribution of drugs; ";

and

(2) by striking paragraph (8) and inserting the following:

"(8) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document drug, alcohol, and violence-related incidents, illegal use and possession of alcohol and the illegal possession, use, and distribution of drugs; ".

SEC. 1028. BOYS AND GIRLS CLUBS OF AMERICA.

SEC. 1029. FEDERAL INCOME TAX INCENTIVE STUDY.

(a) IN GENERAL.—The Secretary of Education shall provide for the conduct of a study to examine whether Federal income tax incentives that provide education assistance affect higher education tuition rates.

(b) DATE.—The study described in subsection (a) shall be completed not later than 6 months after the date of enactment of this Act and every 4 years thereafter.

(c) REPORT.—The Secretary shall report to Congress the results of each study conducted under this section.


(a) IN GENERAL.—The Secretary of Education shall provide for the conduct of a study to examine the contributions of veterans to the prosperity and way of life of the United States, including the contributions of veterans to the Nation.

(b) STUDY.—The Secretary shall conduct a study to focus attention on the contributions of veterans to the Nation.

(c) REPORT.—The Secretary shall report to Congress the results of each study conducted under this section.

SEC. 1031. SENSE OF CONGRESS ON ENHANCING AWARENESS OF THE CONTRIBUTIONS OF VETERANS TO THE NATIONAL DEFENSE.

(a) IN GENERAL.—The term ‘contact person’ means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(2) EMERGENCY.—The term ‘emergency’ means an emergency action taken to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

SEC. 1032. TECHNICAL AMENDMENT TO THE KIDS 2000 ACT.

Amounts appropriated pursuant to section 112(b)(1) of the Kids 2000 Act (42 U.S.C. 13751 note) and the initiative to be carried out under such Act shall be administered by the Secretary of Education.

SEC. 1033. PEST MANAGEMENT IN SCHOOLS.

(a) DEFINITIONS.—In this section:

"(1) BAFF means a pesticide that contains an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

"(2) CONTRACT PERSON.—The term ‘contract person’ means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(3) EMERGENCY.—The term ‘emergency’ means an emergency action taken to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given in the term ‘local educational agency’ in the definition of ‘Elementary and Secondary Education Act of 1965.

"(5) AVOIDANCE.—The term ‘avoidance’ means—

"(A) knowledge that a particular pest is present or is likely to become present in the school;

"(B) taking action to prevent pests;

"(C) taking action to prevent pests; and

"(D) taking action to prevent pests.

"SEC. 33. PEST MANAGEMENT IN SCHOOLS.

(a) AVAILABILITY.—The term ‘pest’ means any plant, insect, fungus, or rodent that is a pest of a plant, insect, fungus, or rodent.

"(B) CONTRACT PERSON.—The term ‘contract person’ means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(3) EMERGENCY.—The term ‘emergency’ means an emergency action taken to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given in the term ‘local educational agency’ in the definition of ‘Elementary and Secondary Education Act of 1965.

"(5) AVOIDANCE.—The term ‘avoidance’ means—

"(A) knowledge that a particular pest is present or is likely to become present in the school;

"(B) taking action to prevent pests;

"(C) taking action to prevent pests; and

"(D) taking action to prevent pests.

"(6) SCHOOLS.—The term ‘school’ means—

"(A) knowledge that a particular pest is present or is likely to become present in the school;

"(B) taking action to prevent pests;

"(C) taking action to prevent pests; and

"(D) taking action to prevent pests.

"SEC. 34. PEST MANAGEMENT IN SCHOOLS.

(a) AVAILABILITY.—The term ‘pest’ means any plant, insect, fungus, or rodent that is a pest of a plant, insect, fungus, or rodent.

"(B) CONTRACT PERSON.—The term ‘contract person’ means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(3) EMERGENCY.—The term ‘emergency’ means an emergency action taken to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given in the term ‘local educational agency’ in the definition of ‘Elementary and Secondary Education Act of 1965.

"(5) AVOIDANCE.—The term ‘avoidance’ means—

"(A) knowledge that a particular pest is present or is likely to become present in the school;

"(B) taking action to prevent pests;

"(C) taking action to prevent pests; and

"(D) taking action to prevent pests.

"SEC. 35. PEST MANAGEMENT IN SCHOOLS.

(a) AVAILABILITY.—The term ‘pest’ means any plant, insect, fungus, or rodent that is a pest of a plant, insect, fungus, or rodent.

"(B) CONTRACT PERSON.—The term ‘contract person’ means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(3) EMERGENCY.—The term ‘emergency’ means an emergency action taken to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given in the term ‘local educational agency’ in the definition of ‘Elementary and Secondary Education Act of 1965.

"(5) AVOIDANCE.—The term ‘avoidance’ means—

"(A) knowledge that a particular pest is present or is likely to become present in the school;

"(B) taking action to prevent pests;

"(C) taking action to prevent pests; and

"(D) taking action to prevent pests.

"SEC. 36. PEST MANAGEMENT IN SCHOOLS.

(a) AVAILABILITY.—The term ‘pest’ means any plant, insect, fungus, or rodent that is a pest of a plant, insect, fungus, or rodent.

"(B) CONTRACT PERSON.—The term ‘contract person’ means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(3) EMERGENCY.—The term ‘emergency’ means an emergency action taken to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(4) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given in the term ‘local educational agency’ in the definition of ‘Elementary and Secondary Education Act of 1965.

"(5) AVOIDANCE.—The term ‘avoidance’ means—

"(A) knowledge that a particular pest is present or is likely to become present in the school;
(i) elementary school (as defined in section 3 of the Elementary and Secondary Education Act of 1965); (ii) secondary school (as defined in section 3 of the Elementary and Secondary Education Act of 1965); (iii) kindergarten or nursery school that is part of an elementary school or secondary school; or (iv) tribally-funded school.

(1) IN GENERAL.—The term ‘school’ includes any school building, and any area outside of a school building (including a lawn, playground, sports field and any other property or facility), that is controlled, managed, or owned by the school or school district.

(2) STATE PEST MANAGEMENT PLAN.—The term ‘school pest management plan’ means a pest management plan developed under subsection (b).

(3) STAFF MEMBER.—(A) IN GENERAL.—The term ‘staff member’ means a person employed at a school or local educational agency.

(4) EXCLUSIONS.—The term ‘staff member’ does not include—

(i) a person hired by a school, local educational agency, or State to apply a pesticide; or

(ii) a person assisting in the application of a pesticide.

(5) STATE AGENCY.—The term ‘State agency’ means the agency of a State, or an agency of an Indian tribe (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), that exercises primary jurisdiction over pesticides in the State

(6) UNIVERSAL NOTIFICATION.—The term ‘universal notification’ means notice provided by a local educational agency or school to—

(A) students; legal guardians, or other person(s) with legal standing as parents of each child attending the school; and

(B) staff members of the school.

(7) SCHOOL PEST MANAGEMENT PLANS.—

(A) STATE PLANS.—

(i) STATE PLANS.—On approval of the school pest management plan of the State agency, the State agency shall make the school pest management plan available to each local educational agency in the State.

(ii) A sample school pest management plan.

(B) EXCEPTION FOR EXISTING PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State has implemented a school pest management plan that, at a minimum, meets the requirements under subparagraph (C) (as determined by the Administrator), the State agency may maintain the school pest management plan and shall not be required to develop a new school pest management plan under subparagraph (B).

(C) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

(i) IN GENERAL.—Not later than 1 year after the date on which a local educational agency receives a copy of a school pest management plan of a State agency under paragraph (1)(E), the local educational agency shall develop and implement in each of the schools under the jurisdiction of the local educational agency a school pest management plan that meets the standards and requirements under the school pest management plan of the State agency, as determined by the Administrator.

(ii) EXCEPTION FOR EXISTING PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State maintains a school pest management plan that, at a minimum, meets the standards and criteria established under this section (as determined by the Administrator), and a local educational agency in the State has implemented the State school pest management plan, the local educational agency may maintain the school pest management plan and shall not be required to develop and implement a new school pest management plan under subparagraph (B).

(D) APPLICATION OF PESTICIDES AT SCHOOLS.—A school pest management plan shall prohibit—

(i) the application of a pesticide to any area or room at a school while the area or room is occupied or in use by students or staff members (except students and staff participating in regular or vocational educational instruction involving the use of pesticides); and

(ii) the use by students or staff members of any pesticide-treatment area or room treated with a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging during—

(A) the period specified on the label of the pesticide during which a treated area or room should remain unoccupied; or

(B) if there is no period specified on the label, a 24-hour period beginning at the end of the treatment.

(2) CONTACT PERSON.—

(A) IN GENERAL.—Each local educational agency shall designate a contact person to carry out a school pest management plan in schools under the jurisdiction of the local educational agency.

(B) DUTIES.—The contact person of a local educational agency shall—

(i) maintain information about the scheduling of pesticide application in each school under the jurisdiction of the local educational agency;

(ii) act as a contact for inquiries, and disseminate information requested by parents or guardians, about the school pest management plan;

(iii) maintain and make available to parents, legal guardians, or other persons with legal standing as parents of each child attending the school, before and during the notice period and after application—

(A) copies of material safety data sheet for pesticides applied at the school, or copies of material safety data sheets for end-use dilutions of pesticides applied at the school, if data sheets are available; and

(B) labels and fact sheets approved by the Administrator for all pesticides that may be used by the local educational agency; and

(C) any final official information related to the pesticide, as provided to the local educational agency by the registrant.

(iv) for each school, maintain all pesticide use data for each pesticide used at the school (other than antimicrobial pesticides (as defined in section 3 of the Food, Drug, and Cosmetic Act)); and

(v) make that data available for inspection on request by any person.

(3) NOTIFICATION.—

(A) UNIVERSAL NOTIFICATION.—At the beginning of each school year, a local educational agency shall provide—

(i) to staff members of a school,

(ii) to parents, legal guardians, or other person(s) with legal standing as parents of students enrolled at the school, a notice describing the school pest management plan that includes—

(A) a summary of the requirements and procedures under the school pest management plan; (B) a description of any potential pest problems that the school may experience (including a description of the procedures that may be used to address those problems);

(B) school address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

(C) the following statement (including information to be supplied by the school as indicated in brackets):

As part of a school pest management plan, the school (insert school name) may use pesticides to control pests. The Environmental Protection Agency (EPA) and (insert name of State agency exercising jurisdiction over pesticide registration and use) registers pesticides for that use. EPA continues to examine registered pesticides to determine that use of the pesticides in accordance with instructions printed on the label does not result in unreasonable risks to human health and the environment. Nevertheless, EPA cannot guarantee that registered
pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided. Based in part on recommendations of a 1991 study by the National Academy of Sciences that reviewed registered pesticides and their potential to cause unreasonable adverse effects on human health, particularly on the health of pregnant women, infants, and children, Congress enacted the Food Quality Protection Act of 1996. That Act requires EPA to reevaluate all registered pesticides and new pesticides to measure their safety, taking into account the unique exposures and sensitivity of pregnant women and children who may have pesticides. EPA re-

viewed under that law is ongoing. You may request under section 35 of the Food Quality Protection Act of 1996 that EPA provide you with a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied and receive information about the applications by registering with the school. Certain pesticides used by the school (including baits, pastes, and gels) are exempt from notification requirements. If you would like more information concerning any pesticide application or any product used at the school, contact (insert name and phone number of contact person):

"(B) NOTIFICATION TO PERSONS ON REG-

ISTRY.—(i) IN GENERAL.—Except as provided in clause (ii) and paragraph (5)—

"(I) notice of an upcoming pesticide applica-

tion at a school shall be provided to each person on the registry of the school not later than 24 hours before the end of the last business day during which the school is in session that precedes the day on which the application is to be made and;

(ii) the application of a pesticide for which a notice is given under subclause (I) shall not commence before the end of the business day on which the outdoor pesticide application may take place if the preceding date is canceled.

"(II) NOTIFICATION CONCERNING PESTICIDES USED IN CURRICULA.—If pesticides are used as part of a regular vocational agricultural curricu-

ulum or school curriculum, a notice containing the information described in subclauses (I), (IV), (VI), and (VII) of clause (iii) for all pesticides that may be used as a part of that curriculum shall be provided to persons on the registry only once at the beginning of each academic term of the school.

"(III) CONTENTS OF NOTICE.—A notice under clause (i) shall contain—

"(I) the trade name, common name (if applicable), and Environmental Protection Agency registration number for each pesticide to be applied;

"(II) a description of each location at the school at which a pesticide is to be applied;

"(III) the date and time of application, except that, in the case of an outdoor pesticide application, a notice shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled;

"(IV) all information supplied to the local educational agency by the State agency, including a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied on—

"(aa) a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied, as stated on the label of the pesticide approved by the Adminis-

trator;

"(bb) information derived from the material safety data sheet for the end-use dilution of the pesticide to be applied (if available) or the material safety data sheets in advance;

"(cc) final, official information related to the pesticide prepared by the Administrator and provided to the local educational agency by the State agency;

"(V) a description of the purpose of the applica-

tion of the pesticide;

"(VI) the date, telephone number, and website address of the Office of Pesticide Pro-

grams of the Environmental Protection Agency; and

"(VII) the statement described in subpara-

graph (A)(ii) (other than the ninth sentence of that statement).

"(C) NOTIFICATION AND POSTING EXEMPTI-

ON.—A notice or posting of a sign under subpara-

graph (A), (B), or (G) shall not be required for the application at a school of—

"(i) an antimicrobial pesticide;

"(ii) a bait, gel, or paste that is placed—

"(I) out of reach of children or in an area that is not accessible to children; or

"(II) in a tamper-resistant or child-resistant container or station; and

"(iii) any pesticide that, as of the date of en-

forcement of the School Environment Protection Act of 1996, is exempt from the require-

ments of this Act under paragraph 25(b) (including regulations promulgated at section 152 of title 40, Code of Federal Regulations (or any successor regula-

tion)).

"(D) NEW STAFF MEMBERS AND STUDENTS.—After the beginning of each school year, a local educational agency or school within a local educational agency shall provide each notice re-

quired under subparagraph (A) to—

"(i) each new staff member who is employed during the school year; and

"(ii) the parent or guardian of each new stu-

dent enrolled during the school year.

"(E) METHOD OF NOTIFICATION.—A local edu-

cational agency or school may provide a notice under this subsection, using information de-

scribed in paragraph (4), in the form of—

"(i) a written notice sent home with the stu-

dents and provided to staff members;

"(ii) a telephone call;

"(iii) direct contact;

"(iv) a written notice mailed at least 1 week before the application; or

"(v) a notice delivered electronically (such as through electronic mail or facsimile).

"(F) REUSABILITY.—If the date of the appli-

cation of the pesticide is extended beyond the period required for notice under this para-

graph, the school shall issue a notice containing only the time and location of application.

"(G) POSTING OF NOTICES.—

"(i) IN GENERAL.—Except as provided in para-

 graph (5)—

"(I) a school shall post a sign not later than the last business day during which school is in session preceding the date of application of a pesticide at the school; and

"(II) the application for which a sign is post-

ed under subclause (I) shall not commence before the time that is 24 hours after the end of the business day on which the sign is posted.

"(ii) LOCATION.—A sign shall be posted under clause (i)—

"(I) at a central location noticeable to indi-

viduals entering the building; and

"(II) at the point of application.

"(iii) ADMINISTRATION.—A sign required to be posted under clause (i) shall—

"(I) remain posted for at least 24 hours after the end of the application;

"(II) be—

"(aa) at least 8½ inches by 11 inches for signs posted inside the school; and

"(bb) at least 4 inches by 5 inches for signs posted outside the school; and

"(III) contain—

"(aa) information about the pest problem for which the application is necessary;

"(bb) the name of each pesticide to be used;

"(cc) the date of application;

"(dd) the name and telephone number of the designated contact person; and

"(ee) the statement contained in subpara-

graph (A)(iv).

"(IV) OUTDOOR PESTICIDE APPLICAT-

IONS.—

"(I) IN GENERAL.—In the case of an outdoor pesticide application at a school, each sign shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled.

"(II) DURATION OF POSTING.—A sign described in subclause (I) shall be posted after an outdoor pesticide application in accordance with clauses (ii) and (iii).

"(V) EMERGENCIES.—

"(A) IN GENERAL.—A school may apply a pes-

ticide at the school without complying with this part in an emergency, subject to subparagraph (B).

"(B) SUBSEQUENT NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—Not later than the earlier of the time that is 24 hours after a school applies a pesticide under this para-

graph or on the next business day, the school shall provide to each parent or guardian of a student listed on the registry, a staff member listed on the registry, and the des-

ignated contact person, notice of the application of the pesticide in an emergency that includes—

"(i) the information required for a notice under paragraph (4)(A); and

"(ii) a description of the problem and the fac-

tors that required the application of the pes-
ticide to avoid a threat to the health or safety of a student or staff member.

"(C) METHOD OF NOTIFICATION.—The school may provide the notice required by paragraph (B) by any method of notification described in following:

"(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this para-

graph, a school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

"(E) RELATIONSHIP TO LOCAL AND STATE LAWS.—Nothing in this section (including regulations promulgated under this section)—

"(I) precludes a State or political subdivision of a State from imposing on local educational agencies and schools any requirement under State or local law (including regulations) that is more stringent than the requirements imposed under this section; or

"(II) establishes any exception under, or af-

fects in any other way, section 24(b).

"(F) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as are necessary to carry out this sec-

tion.

"(G) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Federal Insecti-

cide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relat-

ing to sections 30 through 32 and inserting the follow-

ings:

"Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

"Sec. 31. Environmental Protection Agency minor use program.

"Sec. 32. Department of Agriculture minor use program.

"(a) In general.

"(b)(1) Minor use pesticide data.

"(2) Minor Use Pesticide Data Revolving Fund.

"Sec. 33. Pest management in schools.

"(a) Definitions.

"(1) But.

"(2) Contact person.

"(3) Emergency.

"(4) Local educational agency.

"(5) School.

"(6) Staff member.

"(7) State agency.

"(8) Universal notification.

"(b) School pest management plans.

"(1) State plans.

"(2) Implementation by local educational agencies.

"(3) Contact person.

"(4) Notification.

"(5) Emergencies.

"(6) Relationship to State and local require-

ments.

"(d) Authorization of appropriations.

"Sec. 34. Severability.

"Sec. 35. Authorization of appropriations.

"(d) EFFECTIVE DATE.—This section and the amend-

ments made by this section take effect on October 1, 2001.

"TITLE XI—TEACHER PROTECTION

SEC. 1101. TEACHER PROTECTION.

The Act (20 U.S.C. 6301 et seq.) is amended by adding at the end the following:

"(A))
TITLE X—TEACHER PROTECTION

SEC. 10001. SHORT TITLE
‘“This title may be cited as the ‘Paul D. Coverdell Teacher Protection Act of 2001.’"

SEC. 10002. FINDINGS AND PURPOSE
(a) FINDINGS.—Congress makes the following findings:
’“(1) The ability of teachers, principals, and other school professionals to teach, inspire and shape young Americans’ future is dependent on the Nation’s elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

(2) Each year more and more teachers, principals and other school professionals face lawsuits for actions undertaken as part of their duties to provide millions of school children quality educational opportunities and maintain order and discipline in the classroom and in schools.

(3) Too many teachers, principals and other school professionals face increasingly severe and random acts of violence in the classroom and in schools.

(4) Providing teachers, principals and other school professionals a safe and secure environment is an important part of the effort to improve and maintain order and discipline and an appropriate educational environment is an important part of the effort to improve and maintain order and discipline in our Nation’s elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

(5) Frivolous lawsuits against teachers maintaining order and discipline in the classroom and in an appropriate educational environment is an important part of the effort to improve and maintain order and discipline in our Nation’s elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

(b) PURPOSE.—The purpose of this title is to provide teachers, principals and other school professionals the tools they need to undertake reasonable actions to maintain order and discipline, and an appropriate educational environment.

SEC. 10003. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY
(a) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation that:
’“(1) citing the authority of this subsection;

(2) declaring the election of such State that this title shall not apply, as of a date certain, to such civil action in such State; and

(3) containing no other provisions.

SEC. 10004. LIMITATION ON LIABILITY FOR DAMAGES
(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsections (b) through (d), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if:

’“(1) the teacher was acting within the scope of the teacher’s employment or responsibilities related to instructional services;

’“(2) the actions of the teacher were carried out in conformity with local, State, and Federal laws (including rules and regulations) in furtherance of law enforcement, discipline, or, by reason of Federal or State law, to maintain order in the classroom or on school grounds;

’“(3) if required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred or to which the teacher was subjected; and

’“(4) if outside the State, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred or to which the teacher was subjected.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation that:

(1) citing the authority of this subsection;

(2) declaring the election of such State that this title shall not apply, as of a date certain, to such civil action in such State; and

(3) containing no other provisions.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any State law enacted prior to June 22, 2001.

(d) EXCEPTIONS TO LIABILITY.—Nothing in this section shall be construed to affect any State law enacted prior to June 22, 2001.

SEC. 10005. LIABILITY FOR NONECONOMIC LOSSES.
(A) GENERAL RULE.—In any civil action against a teacher, based on an action or omission of a teacher, the liability of the teacher’s responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

(B) AMOUNT OF LIABILITY.—

(i) IN GENERAL.—Each defendant who is a teacher, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(ii) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of non-economic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant’s harm, whether or not such person is a party to the action.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a) beyond the limitations established in this section.

SEC. 10006. DEFINITIONS.
For purposes of this title:

(ECONOMIC LOSS.—The term ‘economic loss’ means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense losses, loss of support, loss of consortium, loss of earnings or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(HARM.—The term ‘harm’ includes physical, nonphysical, economic, and noneconomic losses.

(NONECONOMIC LOSSES.—The term ‘noneconomic losses’ means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of companionship, hedonic damages, injury to or loss of services, injury to or loss of companionship, loss of consortium, and loss of business or employment opportunities).

(SCHOOL.—The term ‘school’ includes a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 1411), or a home school.

(State.—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, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(Teacher.—The term ‘teacher’ means a teacher, instructor, principal, administrator, other educational professional that works in a school, or an individual member of a school board (as distinct from the board itself).

SEC. 10007. EFFECTIVE DATE.
(A) IN GENERAL.—This title shall take effect 90 days after the date of the enactment of the Paul D. Coverdell Teacher Protection Act of 2001.

(B) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the Paul D. Coverdell Teacher Protection Act of 2001.
(A) IN GENERAL.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, each Bureau funded school shall, to the extent that necessary funds are provided, be a candidate for accreditation or be accredited—

(ii) by a tribal department of education if such accreditation is accepted by a generally recognized state accreditation agency;

(iii) by a regional accreditation agency;

(iv) in accordance with accreditation standards for the State in which the school is located; or

(v) in the case of a school that is located on a reservation that is located in more than 1 State, in accordance with the State accreditation standards of 1 State as selected by the tribal government.

(B) FEASIBILITY STUDY.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary of the Interior and the Secretary of Education shall, in conjunction with Indian tribes, Indian education organizations, and accrediting agencies, develop and submit to the appropriate Committees of Congress a report on the feasibility of establishing a National Tribal Accreditation Agency that would serve as an accrediting body for Bureau funded schools.

(2) DETERMINATION OF ACCREDITATION TO BE APPLIED.—The accreditation type applied for each school shall be determined by the tribal governing body, or the school board, if authorized by the tribe.

(C) ASSISTANCE TO SCHOOL BOARDS.—The Secretary, through contracts and grants, shall provide technical and financial assistance to Bureau funded schools, to the extent that necessary amounts are made available, to enable such schools to obtain the accreditation required under this section. If the school board requests that such assistance, in part or in whole, be provided. The Secretary may provide such assistance directly or through the Department of Education, an institution of higher education, a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with demonstrated experience in assisting schools in obtaining accreditation.

(4) APPLICATION OF CURRENT STANDARDS DURING ACCREDITATION.—A Bureau funded school that is seeking accreditation shall remain subject to the provisions of part B of title IV of the Education Amendments of 1974 and in effect on the date of enactment of the Native American Education Improvement Act of 2001 until such school is accredited, except that if any of such standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

(5) ANNUAL REPORT ON UNACCREDITED SCHOOLS.—Not later than 90 days after the end of each school year, the Secretary shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives and the Committee on Resources of the House of Representatives and the Committees on Appropriations and the Committee on Indian Affairs of the Senate, a report concerning unaccredited Bureau funded schools that—

(A) identifies those Bureau funded schools that fail to be accredited or to be candidates for accreditation within the period provided for in paragraph (1);

(B) with respect to each Bureau funded school identified under subparagraph (A), identifies the reasons that each such school is not accredited or a candidate for accreditation, as determined by the appropriate accreditation agency, and describes any reasonable alternative to the remedy that is not available to such school;

(C) with respect to each Bureau funded school for which the reported reasons for the lack of accreditation are that the school does not meet the accreditation standards of the accrediting agency, the Secretary shall prepare and submit to the Secretary such information as the Board believes is in the public interest to include in the annual report under paragraph (5) so long as the necessary resources have been provided to the school.

(2) PUBLICATION OF ACCREDITATION STATUS.—Not later than 30 days after making an initial determination concerning the accreditation of the school, the Secretary shall provide to the school the information concerning the accreditation status of the school.

(3) SCHOOL PLAN.—Not later than 120 days after the date on which a school is included in an annual report under paragraph (5), the school shall develop a school plan, in consultation with interested parents and the Secretary, in conjunction with Indian tribes, the school board, the governing body, or the school staff, with appropriate Committees of Congress a report on the feasibility of establishing a National Tribal Accreditation Agency that would serve as an accrediting body for Bureau funded schools.

(5) OPPORTUNITY TO REVIEW AND PRESENT ISSUES.—If the school board of a school that the Secretary has proposed for inclusion in an annual report under paragraph (5) believes that such inclusion is in error, the school board may provide to the Secretary such information as the Board believes is in conflict with the information and conclusions of the Secretary with respect to the determination to include the school in such annual report. The Secretary shall consider such information provided by the school board before making a final determination concerning the inclusion of the school in an annual report.

(6) OPPORTUNITY TO REVIEW AND PRESENT ISSUES.—If the school board of a school that the Secretary has proposed for inclusion in an annual report under paragraph (5) believes that such inclusion is in error, the school board may provide to the Secretary such information as the Board believes is in conflict with the information and conclusions of the Secretary with respect to the determination to include the school in such annual report. The Secretary shall consider such information provided by the school board before making a final determination concerning the inclusion of the school in an annual report.

(7) SCHOOL PLAN.—Not later than 120 days after the date on which a school is included in an annual report under paragraph (5), the school shall develop a school plan, in consultation with interested parents and the Secretary, in conjunction with Indian tribes, the school board, the governing body, or the school staff, with appropriate Committees of Congress a report on the feasibility of establishing a National Tribal Accreditation Agency that would serve as an accrediting body for Bureau funded schools.
school plan if the plan meets the requirements of this paragraph.

'(8) CORRECTIVE ACTION.—

'(A) DEFINITION.—In this subsection, the term "correction action" means—

'(i) substantially and directly responds to—

'(ii) a failure of a school to achieve accreditation; and

'(ii) any ongoing staffing, curriculum, or other programmatic problem in the school that contributed to the lack of accreditation; and

'(C) DUTIES OF SECRETARY.—After providing assistance to a school under paragraph (3), the Secretary shall—

'(D) FAILURE OF SCHOOL PLAN.—With respect to a Bureau operated school that fails to be accredited within the 3-year period that the school's plan is in effect under paragraph (7), the Secretary may take 1 or more of the following corrective actions:

'(1) Institute and fully implement actions suggested by the accrediting agency.

'(2) Consult with the tribe involved to determine the reasons for the lack of accreditation including potential staffing and administrative changes that are or may be necessary.

'(3) Set aside a certain amount of funds that may be used by the school to obtain accreditation.

'(4) Provide the tribe with a 60-day period in which to determine whether the tribe desires to operate the school as a contract or grant school, before meeting the accreditation requirements in section 5207 of the Tribally Controlled Schools Act, at the beginning of the next school year following the determination to take corrective action. If the tribe agrees to operate the school as a contract or grant school, the tribe shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7), to achieve accreditation.

'(D) PLANNING.—On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau funded schools, and the tribal governing bodies of such schools a report describing the process of obtaining accreditation that such schools are accredited, or if such school are in the process of obtaining accreditation that such school meet the Bureau standards in effect on the date of enactment of the Native American Education Improvement Act of 2001 to the extent that such standards do not conflict with the standards of the accrediting agency. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school up to the level required by such standards.

'(4) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

'(A) IN GENERAL.—Except as specifically required by law, no Bureau funded school or dormitory operated on or after January 1, 1992, may be closed, consolidated, or transferred to another authority and no program of such a school may be substantially curtailed except in accordance with the requirements of this sub-section.

'(B) CONTENTS.—The report shall include the results of a study of the impact of the action referred to in paragraph (4).
students at the school with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include a description of consultation between the potential service provider and current service provider of such services, parents, tribal representatives, the tribe involved, and the Director regarding such students.

(6) LIMITATION ON CERTAIN ACTIONS.—No irrevocable action may be taken to further any proposed school closure, transfer to another authority, consolidation, or substantial curtailment described in this subsection concerning a school (including any action that would prejudice the personnel or programs of such school) prior to the first full academic year after the report described in paragraph (5) is submitted.

(7) TRIBAL GOVERNING BODY APPROVAL REQUIRED FOR CERTAIN ACTIONS.—The Secretary may terminate, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

(A) any Bureau funded school that is operated on or after January 1, 1999; and
(B) any program of such a school that is operated on or after January 1, 1999; or
(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988; only if the tribal governing body for the school involved approves such action.

(8) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

(I) IN GENERAL.—

(A) APPLICATIONS.—

(i) TRIBES; SCHOOL BOARDS.—The Secretary shall consider the factors described in subparagraph (B) in reviewing—

(I) applications from any tribe for the award of a grant for a school that is not a Bureau funded school; and

(ii) applications from any tribe or school board associated with any Bureau funded school for the awarding of a contract or grant for the expansion of a Bureau funded school that would increase the amount of funds received by the tribe or school board under section 1126.

(ii) LIMITATION.—With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in paragraph (8)(B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

(B) FACTORS.—With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

(i) The adequacy of existing facilities to support the proposed program and services or the applicant's ability to obtain or provide adequate facilities;

(ii) Geographic and demographic factors in the affected areas;

(iii) The stated needs of all affected parties, including students, families, tribal governing bodies or by the January 1, 1999, or
(iv) Geographic proximity of comparable public education.

(iv) The stated needs of all affected parties, including students, families, tribal governing bodies or by the January 1, 1999, or

(v) The adequacy and comparability of programs and services already available.

(vi) Geographical proximity of the proposed program and services with tribal educational coders or tribal legislation on education.

(vii) The history and success of these services for the affected student body as determined from all factors, including standardized examination performance.

(2) DETERMINATION ON APPLICATION.—

(A) PERIOD.—The Secretary shall make a determination concerning whether to approve any application described in paragraph (1)(A) not later than 30 days after the date such application is submitted to the Secretary.

(B) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to make the determination described in subparagraph (A) of this section not later than 30 days after such application is submitted, the application shall be treated as having been approved by the Secretary.

(3) REQUIREMENTS FOR APPLICATIONS.—

(A) APPROVAL.—Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

(i) the application has been approved by the tribal governing body of the student served by or to be served by the school or program that is the subject of the application; and

(ii) the tribe or designated school board involved submits written evidence of such approval with the application.

(B) INFORMATION.—Each application described in paragraph (1)(A) shall contain information discussing each of the factors described in paragraph (8)(B).

(C) LIMITATION ON CERTAIN ACTIONS.—No irrevocable action may be taken concerning a school (including any action that would prejudice the personnel or programs of such school) prior to the first full academic year after the application is submitted to the Secretary.

(D) PROVIDE ASSISTANCE TO THE APPLICANT TO OVERCOME THE STATED OBJECTIONS.—

(i) Provide to the applicant a hearing on the record regarding the denial, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act; and

(ii) Provide to the applicant a notice of the applicant's appeals rights and an opportunity to appeal the decision resulting from the hearing under subparagraph (D).

(E) EFFECTIVE DATE OF A SUBJECT APPLICATION.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the action that is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective

(i) on the first day of the academic year following the academic year in which the application is approved; or

(ii) on an earlier date determined by the Secretary.

(B) APPLICATION TREATED AS APPROVED.—If an application is treated as having been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective

(i) on the date that is 18 months after the date on which the application is submitted to the Secretary; or

(ii) on an earlier date determined by the Secretary.

(6) STATUTORY CONSTRUCTION.—Nothing in section (a) or any other provision of law shall be construed to preclude the expansion of grades and related facilities at a Bureau funded school, if such expansion is paid for with non-Bureau funds.

(7) JOINT ADMINISTRATION.—Administrative, transportation, and program cost funds received by Bureau funded schools, and any program from the Department of Education or any other Federal agency for the purpose of providing education or related services, and other funds received for such education and related services from non-Federally funded programs shall be apportioned and the funds shall be retained at the school.

(8) GENERAL USE OF FUNDS.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services may be used for schoolwide projects to improve the educational program of the schools for all Indian students.

(1) STUDY.—The Comptroller General of the United States shall conduct a study to include an analysis of the information in the General Accounting Office study evaluating and comparing school systems of the Department of Defense and the Bureau of Indian Affairs, in consultation with tribes and local school boards, to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools taking into account circumstances applicable to Bureau funded schools.

(2) FINDINGS.—On completion of the study paragraph (1), the Secretary shall take such action as may be necessary to ensure distribution of the findings of the study to the appropriate authorizing and appropriating committees of Congress, all affected tribes, local school boards, and associations of local school boards.

SEC. 1122. NATIONAL STANDARDS FOR HOME LIVING SITUATIONS.

(1) IN GENERAL.—The Secretary, in accordance with section 1136, shall revise the national standards for home-living situations to include such factors as heating, lighting, cooling, adult-child ratios, need for counselors (including special needs related to off-reservation boarding, dormitory (dormitory) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau schools. Any subsequent revisions shall also be in accordance with standards contained in the standards established under this section.

(2) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their issuance.

(3) PLAN.—

(I) IN GENERAL.—Upon the submission of each annual budget request for Bureau educational services (as contained in the President's annual budget request under section 105 of title 31, United States Code), the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau funded schools that have dormitories or provide home-living (dormitory) situations into compliance with the standards established under this section.

(2) CONTENTS.—Each plan under paragraph (1) shall include—

(A) A statement of the relative needs of each of the home-living schools and projected future needs of each of the home-living schools;

(B) Detailed information on the status of each of the schools in relation to the standards established under this section;

(C) Specific cost estimates for meeting each standard for each such school;

(D) Aggregate cost estimates for bringing all such schools in compliance with the standards established under this section; and

(E) Specific timelines for bringing each school in compliance with such standards.

(4) WAIVER.—

(A) IN GENERAL.—A tribal governing body or local school board may, in accordance with this subsection, waive the standards established under this section for a school described in subsection (a).

(B) ALTERNATIVE STANDARDS.—The tribal governing body or school board involved shall,

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not later than 60 days after providing a waiver under subparagraph (A) for a school, submit to the Director a proposal for alternative standards that take into account the specific needs of the tribe. Such alternative standards shall be established by the Director for the school involved unless specifically rejected by the Director for good cause and in writing provided to the school or local school board.

"(c) BOUNDARY REVISIONS.—In any case in which there is more than 1 Bureau funded school located on a reservation of a tribe, at the direction of the tribal governing body, the relevant school boards of the Bureau funded school in that reservation may, by mutual consent, establish the boundaries of the relevant geographical attendance areas for such schools and, in the case of Bureau funded school under this section, each Bureau funded school that is an off-reservation home-living school shall implement special emphasis programs and permission requesting the off-reservation home-living programs. The programs provided for such students shall be coordinated among education line officers, the families of the students, the schools, and the applicable Department of Education programs that referred the students to the schools.

"SEC. 1123. SCHOOLS.

"(a) Establishment by Secretary.—Except as provided in subsection (b), the Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau

"(b) Establishment by Tribal Body.—In any case in which there is more than 1 Bureau funded school located on a reservation of a tribe, at the direction of the tribal governing body, the relevant school boards of the Bureau funded school in that reservation may, by mutual consent, establish the boundaries of the relevant geographical attendance areas for such schools and, in the case of Bureau funded school under this section, each Bureau funded school that is an off-reservation home-living school shall implement special emphasis programs and permission requesting the off-reservation home-living programs. The programs provided for such students shall be coordinated among education line officers, the families of the students, the schools, and the applicable Department of Education programs that referred the students to the schools.

"SEC. 1124. FACILITIES CONSTRUCTION.

"(a) National Survey of Facilities Conditions.—

"(1) In general.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall compile, collect, and the data that is needed to prepare a national survey of the physical conditions of all Bureau funded school facilities.

"(2) Data and Methodologies.—In preparing the national survey conducted under paragraph (1), the General Accounting Office shall use the following data and methodologies:

"(A) The methodology of the Department of Defense
formulas for determining school condition and adequacy of Department of Defense facilities.

"(B) Data related to conditions of Bureau funded schools that has previously been compiled, collected, or secured from whatever source derived so long as the data is relevant, timely, and necessary to the survey.

"(C) The methodology of the American Institute of Architects, or other accredited and reputable architecture or engineering associations.

"(3) Consultations.—

"(A) In general.—In carrying out the survey required under paragraph (1), the General Accounting Office shall, to the extent practicable, consult with (and if necessary contract with) national, regional, and tribal Indian education organizations to ensure that a complete and accurate national survey is achieved.

"(B) Requests for Information.—All Bureau funded schools that have previously been

"(C) Consistency.—Not later than 24 months after the date of enactment of the

"(1) Incorporates the findings from the General Accounting Office study evaluating and

"(2) Surveys Indian education-related facilities operated by

"(3) School Replacement and New Construction.—

"(A) In general.—Not later than 24 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall submit to the appropriate subcommittees of the Senate, and the Committee on Resources, Commerce and the Judiciary, and the Committee on Appropriations of the House and to the Secretary who, in turn shall submit the results of the national survey to school boards of Bureau-funded schools and their respective Tribes.

"(B) Negotiated Rulemaking Committee.—

"(1) In general.—Not later than 6 months after the date on which the submission is made under paragraph (4), the Secretary shall establish a negotiated rulemaking committee pursuant to section 115(c). The negotiated rulemaking committee shall prepare and submit to the Secretary the following:

"(i) A catalogue of the condition of school facilities at Bureau funded schools;
BODY.—Not later than 10 days after a tribal government body received notice under subparagraph (D), the tribal governing body shall consider all information related to the determinations of the Bureau health and safety officer and the individual designated by the tribe and make a determination regarding the closure, consolidation, or curtailment involved.

(F) AGREEMENT TO CLOSE, CONSOLIDATE, OR CURTAIL.—In making a determination under subparagraph (E), the Bureau shall consult with the tribe to ensure that the tribe is aware of (1) the reasons for such temporary action; (ii) the actions the Secretary is taking to eliminate the conditions that constitute the hazard; (iii) an estimated date by which the actions described in clause (ii) will be concluded; and (iv) a plan for providing alternative education services for students enrolled at the school that is to be closed.

(G) CONSTRUCTION PRIORITIES.—In determining priorities for replacement and construction of facilities, the Secretary shall consider factors such as the age of facilities, the condition of facilities, the adequacy of facilities, the need for facilities, the cost of facilities, and the impact of facilities on the health and safety of students.

(H) USE OF FUNDS.—With respect to a Bureau funded school that is closed, the Secretary shall consider whether to use the funds in the school's account to maintain the school's facilities, to provide alternative education services to students at the school, or to provide alternative education services to students in other schools.

SEC. 1125. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

(a) FORMULATION AND ESTABLISHMENT OF POLICIES AND PROCEDURES; SUPERVISION OF PROGRAMS AND EXPENDITURES.—The Secretary shall formulate and establish policies and procedures for the supervision of Bureau programs and expenditures.

(b) DIRECTION AND SUPERVISION OF PERSONNEL OPERATIONS.—(1) In general.—The Secretary shall carry out such functions relating to personnel operations as are necessary to ensure that the Bureau provides quality education services to students.

(c) INHERENT FEDERAL FUNCTION.—For purposes of this section, all functions relating to personnel operations that are necessary for the Bureau to carry out its mission shall be considered inherent Federal functions.

(d) EVALUATION OF PROGRAMS; SERVICES AND PERSONNEL.—The Secretary shall evaluate the performance of Bureau programs and services and personnel operations, and shall make such improvements as necessary to ensure that the Bureau provides quality education services to students.

(e) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to reduce Federal funding for programs of the Bureau funded schools.

(f) DIRECTION OF EDUCATION PROGRAMS.—The Secretary shall direct the Bureau to carry out such functions relating to education programs as are necessary to ensure that the Bureau provides quality education services to students.

(g) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to reduce Federal funding for programs of the Bureau funded schools.

(h) DIRECTION OF EDUCATION PROGRAMS.—The Secretary shall direct the Bureau to carry out such functions relating to education programs as are necessary to ensure that the Bureau provides quality education services to students.

(i) DIRECTION OF EDUCATION PROGRAMS.—The Secretary shall direct the Bureau to carry out such functions relating to education programs as are necessary to ensure that the Bureau provides quality education services to students.
(3) provide technical and coordination assistance in areas such as procurement, contracting, budgeting, personnel, curricula, and operation and maintenance of school facilities.

(6) IMPROVEMENT, OPERATION, AND MAINTENANCE OF FACILITIES.—

(I) PLAN FOR CONSTRUCTION.—The Assistant Secretary shall submit to the appropriation committees of the annual budget request for educational services (as contained in the President’s annual budget request under section 1105 of title 31, United States Code) a plan—

(A) for the construction of school facilities in accordance with section 1124(g);

(B) for the improvement and repair of educational facilities in accordance with section 1124(e); and

(C) for the improvement and repair of education facilities to be made over the 5 years succeeding the year covered by the plan.

(II) PROGRAM FOR OPERATION AND MAINTENANCE.—

(A) IN GENERAL.—

(I) PROGRAM.—The Assistant Secretary shall establish a program for the distribution of funds appropriated under this part, for the operation and maintenance of education facilities. Such program shall include—

(A) a method for determining the amount necessary for the operation and maintenance of each education facility;

(B) requirements for similar treatment of all Bureau funded schools;

(III) a notice of an allocation of the appropriated funds from the Director of the Office directly to the appropriate education line officers and school officials;

(IV) a method for determining the need for, and program of, facilities improvement and repair projects, both major and minor; and

(V) a system for conducting routine preventive maintenance.

(B) MAINTENANCE.—The appropriate education line officers shall make arrangements for the maintenance of the education facilities with the local school boards and the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action after decisions made by the appropriate education line officers. No funds made available under this part may be authorized for expenditure for maintenance of such an education facility unless the appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

(3) IMPLEMENTATION.—The requirements of this subsection shall be implemented as soon as practicable after the date of enactment of the Native American Education Improvement Act of 2000.

(4) ACCEPTANCE OF GIFTS AND BEquests.—

(I) GUIDELINES.—Notwithstanding any other provision of law, the Director of the Office shall promulgate guidelines for the establishment and administration of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau operated programs, including, in appropriate cases, the establishment and administration of trust funds.

(II) MONITORING AND REPORTS.—Except as provided in paragraph (3), in a case in which a Bureau operated education program is the beneficiary of such a gift or bequest, the Director shall—

(A) make provisions for monitoring use of the gift or bequest; and

(B) submit a report to the appropriate committees of Congress that describes the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results from implementing any portion of such gift or bequest.

(II) EXCEPTION.—The requirements of paragraph (2) shall not apply in the case of a gift or bequest that is valued at $5,000 or less.

(III) FUNDS.—In this section, the term ‘funds’ includes powers and duties.

SEC. 1126. ALLOTMENT FORMULA.—

(A) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDIZED CURRICULUM.—

(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section 1136, a formula for determining the minimum amount of funds necessary to operate each Bureau funded school. In establishing such formula, the Secretary shall consider—

(A) the number of eligible Indian students served by the school and the school student population of the school;

(B) special cost factors, such as—

(i) the isolation of the school;

(ii) the need for special staffing, transportation, or educational programs;

(iii) food and lodging;

(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

(v) special transportation and other costs of an isolated or small school;

(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a State or local governing body or designated school board;

(vii) costs associated with greater lengths of service by education personnel;

(viii) the costs of therapeutic programs for students requiring such programs; and

(ix) special costs for gifted and talented students;

(C) the costs of providing academic services that are at least equivalent to the services provided by public schools in the State in which the school is located;

(D) whether the available funding will enable the school involved to comply with the accreditation standards applicable to the school under section 1123;

(E) such other relevant factors as the Secretary determines are appropriate including the information contained in the General Accounting Office report on comparing school systems of the Department of Defense and the Bureau of Indian Affairs.

(2) REVISION OF FORMULA.—On the establishment of the standards required in section 1122, the Secretary shall—

(A) revise the formula established under paragraph (1) to reflect the cost of compliance with such standards; and

(B) after the formula has been established under paragraph (1), take such action as may be necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living schools and other Bureau operated residential facilities; and

(C) concurrently with any actions taken under clause (i), review the standards established under section 1122 to ensure that such standards adequately provide for parental notification, regarding, and consent for, such counseling and therapeutic programs.

(B) PRO RATA ALLOTMENT.—Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted on a pro rata basis in accordance with the formula established under subsection (a).

(C) ANNUAL ADJUSTMENT; RESERVATION OF AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

(A) IN GENERAL.—For fiscal year 2002, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

(1) use a weighted factor of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

(2) consider a school with an enrollment of fewer than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students; and

(3) use a weighted factor of 0.85 for each eligible Indian student that—

(i) is gifted and talented; and

(ii) is enrolled in the school on a full-time basis, in considering the number of eligible Indian students served by the school; and

(B) TIMING.—The Secretary shall make the adjustment required under subparagraph (A)(i) for each school.

(1) the school board of such school provides a certification of the Indian or Native language curriculum of the school to the Secretary, to be obtained with an estimator of the full-time students expected to be enrolled in the curriculum in the second academic year after the academic year for which the certification is made; and

(2) the funds appropriated for allotments under this section are designated, in the appropriation Act appropriating such funds, as the funds necessary to implement a program at such school without reducing an allotment made under this section to any school by virtue of such adjustment.

(2) RESERVATION OF AMOUNT.—

(A) IN GENERAL.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

(1) $8,000; or

(2) the lesser of—

(i) $15,000; or

(ii) 1 percent of such allotted funds.

(B) TRAINING.—Each local school board, and any agency school board that serves as a local school board for any grant or contract school, shall ensure that each individual who is a new member of the school board receives, within 12 months after the individual becomes a member of the school board, 40 hours of training relevant to that individual’s role on the board. Such training may include training concerning legal issues pertaining to Bureau funded schools, legal issues pertaining to school boards, ethics, and other topics determined to be appropriate by the school board. The training described in this subparagraph shall not be required but is recommended for a tribal governing body that serves in the capacity of a school board.

(D) RESERVATION OF AMOUNT FOR EMERGENCIES.—

(A) IN GENERAL.—The Secretary shall reserve from the funds available for allotment for each fiscal year under this section an amount that, in the aggregate, equals 1 percent of the funds available for allotment for that fiscal year for emergencies.

(B) USE OF FUNDS.—Amounts reserved under paragraph (1) shall be used, at the discretion of
the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended on services or programs, including emergency repairs of education facilities, at a school site (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988).

“(3) FUNDS REMAINING AVAILABLE.—Funds reserved under this subsection shall remain available without fiscal year limitation until expended. The aggregate amount of such funds, from all fiscal years, that is available for expenditure in a fiscal year may not exceed an amount equal to 1 percent of the funds available for allotment under this section for that fiscal year.

“(4) REPORTS.—If the Secretary makes funds available under this subsection, the Secretary shall submit a report describing such action to the appropriate committees of Congress as part of the President’s next annual budget request under section 1105 of title 31, United States Code.

“(e) SUPPLEMENTAL APPROPRIATIONS.—Any funds provided in a supplemental appropriations act to meet increased pay attributable to school level personnel of Bureau funded schools shall be allotted under this section.

“(f) ELIGIBLE INDIAN STUDENT DEFINED.—In this section, the term ‘eligible Indian student’ means a student who—

“(i) is a member of, or is at least 1⁄4 degree Indian blood descendant of a member of, a tribe that is eligible to receive services provided by the United States through the Bureau to Indians because of their status as Indians;

“(ii) resides on or near a reservation or meets the criteria for attendance at a Bureau offreservation home-schooling; and

“(iii) is enrolled in a Bureau funded school.

“(g) TUTION.

“(1) IN GENERAL.—A Bureau school or contract or grant school may not charge an eligible Indian student tuition for attendance at the school. A Bureau school may not charge a student attending the school under the circumstances described in paragraph (2)(B) tuition for attendance at the school.

“(2) ATTENDANCE OF NON-INDIAN STUDENTS AT BUREAU SCHOOLS.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student—

“(A)(i) the Secretary determines that the student’s attendance will not adversely affect the school’s program for eligible Indian students because—

“(i) it will not result in violation of standards or accreditation requirements; and

“(ii) the local school board consents; and

“(B)(i) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site; or

“(ii) tuition is paid for the student in an amount that is not more than the amount of tuition charged by the nearest public school district for out-of-district students, and is paid in addition to the school’s allotment under this section.

“(3) ATTENDANCE OF NON-INDIAN STUDENTS AT CONTRACT AND GRANT SCHOOLS.—The school board of a contract or grant school may permit students who are not eligible Indian students to attend the contract or grant school. Any tuition collected for those students shall be in addition to the amount the school received under this section.

“(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, at the election of the local school board of a Bureau school made at any time during a fiscal year, a portion equal to not more than 15 percent of the funds allotted for the school by the Secretary of Education shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary for Indian Affairs shall take such steps as may be necessary to implement this subsection.

“(i) STUDENTS AT RICHFIELD DORMITORY, RICHFIELD, UTAH.—Funds for the instruction of each out-of-State Indian student in a home-living situation at the Richfield dormitory in Richfield, Utah, who attends Sevier County high schools for an academic year, shall be paid from Indian school equalization program funds authorized in this section and section 1129, at a rate not to exceed the weighted amount provided for under subsection (b) for a student for that year. No additional administrative cost funds shall be provided under this part to pay for administrative costs relating to tuition for attendance at the contract or grant school. Any tuition charged for attendance at the school.

“SEC. 1127. ADMINISTRATIVE COST GRANTS.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATIVE COST.—

“(A) IN GENERAL.—The term ‘administrative cost’ means the cost of necessary administrative functions which—

“(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;

“(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds; and

“(iii) are either—

“(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

“(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

“(B) INCLUSIONS.—The term ‘administrative cost’ may include—

“(i) contract or grant (or other agreement) administration;

“(ii) executive, policy, and corporate leadership and decisionmaking;

“(iii) program planning, development, and management;

“(iv) fiscal, personnel, property, and procurement management;

“(v) related office services and record keeping; and

“(vi) costs of necessary insurance, auditing, legal, safety and security services.

“(2) BUREAU ELEMENTARY AND SECONDARY FUNCTIONS.—The term ‘Bureau elementary and secondary functions’ means functions provided by the Bureau to Indians because of their status as Indians;

“(3) ADMINISTRATIVE APPROPRIATIONS.—Any funds appropriated for the Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

“(4) MAXIMUM BASE RATE.—The term ‘maximum base rate’ means 30 percent.

“(5) STANDARDS DIRECT COST BASE.—The term ‘standard direct cost base’ means 1 percent.

“(6) TRIBAL ELEMENTARY OR SECONDARY EDUCATIONAL PROGRAMS.—The term ‘tribal elementary or secondary educational programs’ means any education functions performed by the tribe or tribal organization, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and funds made available under this section for the costs of administering any program for Indians that is funded by appropriations made to such other departments or agencies) that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

“(7) ELIGIBLE INDIAN STUDENT.—In this section, the term ‘eligible Indian student’ means a student who—

“(A) is a member of, or is at least 1⁄4 degree Indian blood descendant of a member of, a tribe that is eligible to receive services provided by the United States through the Bureau to Indians because of their status as Indians;

“(B) resides on or near a reservation or meets the criteria for attendance at a Bureau offreservation home-schooling; and

“(C) is enrolled in a Bureau funded school.

“(B) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

“(A) IN GENERAL.—The Secretary shall provide grants to each tribe or tribal organization operating a contract or grant school, in an amount determined under this section, for the purpose of paying the administrative and indirect costs incurred in operating the contract or grant school, in order to—

“(i) enable the tribe or tribal organization operating the school, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice; and

“(ii) carry out other necessary support functions that would otherwise be provided by the tribe or other Federal employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

“(B) AMOUNT.—No school operated as a stand-alone institution shall receive less than $200,000 per year under this paragraph.

“(2) EFFECT UPON APPROPRIATED AMOUNTS.—Any amounts appropriated to fund the grants provided for under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

“(c) DETERMINATION OF GRANT AMOUNT.—

“(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization operating a contract or grant school under this section shall be determined by applying the administrative cost percentage rate determined under subsection (d) of the tribe or tribal organization to the aggregate cost of the contract or grant school, in support of comparable Bureau operated programs.

“(2) DIRECT COST BASE FUND.—The Secretary shall—

“(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by a tribe or tribal organization under any Federal education program that is included in the direct cost base of the tribe or tribal organization; and

“(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government (other than the Department of the Interior) for any portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

“(3) REDUCTIONS.—If the total amount of funds necessary to provide grants to tribes and
tribal organizations in the amounts determined under paragraph (1) and (2) for a fiscal year exceed the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under this subsection for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under such subsection bears to the total of all grants determined under this subsection for all tribes and tribal organizations for such fiscal year.

(6) ADMINISTRATIVE COST PERCENTAGE RATE.

(a) IN GENERAL.—For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

(i) the direct cost base of the tribe or tribal organization for the fiscal year; multiplied by

(ii) the administrative cost percentage rate; plus

(iii) the standard direct cost base; multiplied by

(b) the maximum base rate; by

(b) the sum of—

(i) the direct cost base of the tribe or tribal organization for the fiscal year; and

(ii) the standard direct cost base.

(2) Rounding.—The administrative cost percentage rate shall be determined to 1/100 of a percent.

(3) Semiquarterly.—The administrative cost percentage rate determined under this subsection shall be determined as of the date of enactment of the Native American Educational Assistance Act of 1996 and shall not be adjusted thereafter.

(4) COMBINING FUNDS.—Funds received through a grant made under this section with respect to separate contract or grant schools shall remain available for such schools until expended.

(b) ADMINISTRATIVE COST GRANT BUDGET REQUESTS.

(1) IN GENERAL.—Beginning with President’s annual budget request under section 1105 of title 31, United States Code for fiscal year 2002, and with respect to each succeeding budget request, the Secretary shall submit to the appropriate committees of Congress information and funding requests for the full funding of administrative costs grants required to be paid under this section.

(2) REQUIREMENTS.—

(A) FUNDING FOR NEW CONVERSIONS TO CONTRACT OR GRANT SCHOOL OPERATIONS.—With respect to a budget request under paragraph (1), the amount required to provide full funding for administrative costs grants associated with tribal organizations expected to begin operation of a Bureau-funded school as contract or grant school in the academic year covered by such annual budget request, the amount so required shall not be less than 10 percent of the amount required for subparagraph (B).

(B) FUNDING FOR CONTINUING CONTRACT OR GRANT SCHOOL OPERATIONS.—With respect to a budget request under paragraph (1), the amount required to provide full funding for an administrative cost grant for each tribal or tribal organization expected to continue operation of a contract or grant school at the time the annual budget request is submitted, which amount shall include the amount of funds required to provide full funding for an administrative cost grant for each tribal or tribal organization which began operation of a contract or grant school with administrative cost grants funds supplied from the amount described in subparagraph (A).

SEC. 1128. DIVISION OF BUDGET ANALYSIS.

(a) ESTABLISHMENT.—Not later than 18 months after the date of enactment of the Native American Educational Assistance Act of 2001, the Secretary shall establish within the Office of the Director of the Division a system for the direct funding and operation of funds appropriated under this section. The Secretary shall maintain separate fund sources for each affected school.

(b) FUNCTIONS.—In consultation with the tribal governing bodies and local school boards, the Director of the Division, through the head of the Division, shall conduct studies, surveys, or other activities to gather demographic information on Bureau-funded schools, and project the amounts necessary to provide to Indian students in such schools the educational program set forth in this part.

(c) ANNUAL REPORTS.—Not later than the date that the Secretary submits the annual budget request under section 1105 of title 31, United States Code for each fiscal year after the date of enactment of the Native American Educational Assistance Act of 2001, the Director of the Division shall submit to the appropriate committees of Congress (including the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate), a report that shall contain—

(i) projections, based on the information gathered pursuant to subsection (b) and any other relevant information, of amounts necessary to provide to Indian students in Bureau-funded schools the educational program set forth in this part; and

(ii) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (i).

(d) USE OF REPORTS.—The Director of the Division, or the appropriate Committees of Congress, may require the Secretary to provide information contained in the annual report required by subsection (c) in preparing their respective budget requests.

SEC. 1129. UNIFORM DIRECT FUNDING AND SUPPORT.

(a) ESTABLISHMENT OF SYSTEM AND FORWARD FUNDING.

(1) IN GENERAL.—The Secretary shall establish, by regulation adopted in accordance with section 1126, a system for the direct funding and support of all Bureau-funded schools. Such system shall allot funds in accordance with section 1126. All amounts appropriated for distribution in accordance with this section shall be made available in accordance with paragraph (2).

(2) TIMING FOR USE OF FUNDS.—

(A) AVAILABILITY.—For the purposes of affording adequate notice of funding available pursuant to this section, the appropriations made under section 1126 and the allotments of funds for operation and maintenance of facilities, amounts appropriated in appropriations Acts for any fiscal year for such allotments and such funds shall be made available for obligation by the affected schools on July 1 of the fiscal year for which such allotments are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

(B) PUBLICATION.—The Secretary shall, on the basis of the amounts appropriated as described in this paragraph—

(i) publish, not later than July 1 of the fiscal year for which the amounts are appropriated, information indicating the amount of the allotments to be made to each affected school under section 1126, of 80 percent of such appropriated amounts; and

(ii) publish, not later than September 30 of such fiscal year, information indicating the amount of the allotments to be made under section 1126, from the remaining 20 percent of such appropriated amounts, adjusted to reflect the actual student attendance.

Any overpayments made to tribal schools shall be returned to the Secretary not later than 30 days after the date on which the Secretary determines that the school was overpaid pursuant to this section.

(c) LIMITATION.—

(A) EXPENDITURES.—Notwithstanding any other provision of law (including a regulation), the supervisor of a Bureau school may expend an aggregate of not more than $20,000 of the amount allotted to the school under section 1126 to acquire materials, supplies, equipment, other equipment, maintenance services, and other services for the school, and amounts received as payments for services, funds received from the Department or other Federal sources, without competitive bidding if—

(i) the expenditure for any single item acquired does not exceed $15,000;

(ii) the school board approves the acquisition; and

(iii) the supervisor certifies that the cost is fair and reasonable;

(iv) the documents relating to the acquisition executed by the supervisor of the school or other appropriate person are acceptable as authority for the acquisition; and

(v) the acquisition transaction is documented in a journal maintained at the school that clearly identifies the amount to be charged for each item that was acquired and from whom, the price paid, the quantities acquired, and any
other information the supervisor or the school board considers to be relevant.

"(B) NOTICE.—Not later than 6 months after the date of enactment of the Native American Educational Assistance Act of 2001, the Secretary shall send notice of the provisions of this paragraph to each supervisor of a Bureau school and associated school board chairperson, the officer in charge of each allotted area, and the Bureau division in charge of procurement, at both the local and national levels.

"(C) APPLICATION AND GUIDELINES.—The Director of the Office shall be responsible for

(1) determining the application of this paragraph, including the authorization of specific individual to provide technical assistance at a school;

(2) ensuring that there is at least 1 such individual at each Bureau facility; and

(3) the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE OF FUNDS.

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—Each Bureau school that receives an allotment under section 1126 shall prepare a local financial plan that specifies the manner in which school will use the funds made available under the allotment and ensures that the school will meet the accreditation requirements or standards for the school pursuant to section 1129.

"(B) REQUIREMENT.—A local financial plan under subparagraph (A) shall comply with all applicable Federal and tribal laws.

"(C) PREPARATION AND REVISON.—The financial plan for a school under subparagraph (A) shall be prepared by the supervisor of the school in active consultation with the local school board for the school. The local school board for each school shall have the authority to ratify, reject, or amend such financial plan and, at the initiative of the local school board, may, in response to the supervisor of the school, revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

"(D) ROLE OF SUPERVISOR.—The supervisor of the school—

(1) shall put into effect the decisions of the school board relating to the financial plan under subparagraph (A); and

(2) shall provide the appropriate local union representative of the education employees of the school with copies of proposed financial plans relative to the school and all modified or proposed modifications to the plans, and at the same time submit such copies to the local school board for review.

"(E) MAY APPEAL.—Any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of the statement under clause (iii) shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overrule the action of the local school board. The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(2) REQUIREMENT.—A Bureau school shall expend the amounts received under an allotment under section 1126 in accordance with the local financial plan prepared under paragraph (1).

(c) TRIBAL DIVISION OF EDUCATION, SELF-DETERMINATION, AND CONTINUING FUNDING. The Secretary may approve applications for funding tribal divisions of education and developing tribal codes of education, from funds made available pursuant to section 181(a) of the Indian Self-Determination and Education Assistance Act.

"(d) TECHNICAL ASSISTANCE AND TRAINING.—A local school board may, in the exercise of the authority of the school board under this section, request technical assistance and training from the Office for such purposes as the Board considers necessary, and to the extent possible, provide such assistance and training, and make appropriate provision in the budget of the Office for such assistance and training.

"(e) SUMMER PROGRAM OF ACADEMIC SUPPORT SERVICES.—

"(1) IN GENERAL.—A financial plan prepared under subparagraph (b) for a school may include, at the discretion of the supervisor and the local school board of such school, a provision for funding a summer program of academic and support services for the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary for Indian Affairs shall provide for the utilization of facilities of the school for such program during any summer in which such utilization is requested.

"(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (commonly known as the "Johnson-O'Malley Act"); 48 Stat. 506, or any other provision of law, may be used to augment the services provided in each summer program referred to in paragraph (1) at the option of the tribe or school receiving such funds. The augmentation of services shall be under the control of the tribe or school.

"(2) REQUIREMENT OF TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, through the Director of the Office, shall provide technical assistance and coordination of activities for any program described in paragraph (1) and shall, to the extent possible, encourage coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of such programs.

"(f) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—From funds allotted to a Bureau school under section 1126, the Secretary shall, in accordance with the views of the tribe, the Bureau, the local school board, and the local public school district that meets the requirements of paragraph (2) and in coordination with the school. The tribe, the Bureau, the school board, and the local public school district shall determine the terms of such agreement.

"(2) AGREEMENT.—An agreement under paragraph (1) may, with respect to the Bureau school and schools in the school district involved, encompass coordination of all or any part of the following:

(A) The academic program and curriculum, unless the Bureau school is accredited by a State or regional accrediting entity and would not continue to be so accredited if the agreement encompassed the program and curriculum.

(B) Support services, including procurement and facilities maintenance.

(C) Transportation.

(D) EQUAL ACCESS AND BURDEN.—

"(A) IN GENERAL.—Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school and the burden assumed by the school.

"(B) LIMITATION.—Subparagraph (A) shall not be construed to require equal expenditures, in cash or in-kind services, by the Bureau school and schools in the school district.

"(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, an action by the Bureau or the Department of Education, whether or not academic credits in educational theory or practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education, given to that student upon the completion of such project.

"(h) MATCHING FUND REQUIREMENTS.—

"(1) NOT CONSIDERED FEDERAL FUNDS.—Notwithstanding any other provision of law, funds received by a Bureau funded school under this title for education-related activities (not including the provision of facilities improvement or repair) shall not be considered Federal funds for the purposes of a matching funds requirement for any Federal program.

"(2) NONAPPLICATION OF REQUIREMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, no requirement relating to the provision of matching funds for the provision of services or in-kind activity as a condition of participation in a program or project or receipt of funds authorized under this Act shall apply to a Bureau school unless the provision of law authorizing such requirement specifies that such requirement applies to such a school.

"(3) LIMITATION.—Notwithstanding an application from a Bureau funded school for participation in a program or project that has a requirement described in subparagraph (A), the entity administering such program or project or awarding such grant shall not give positive or negative weight to such application based solely on the provisions of this paragraph. Such an application shall be considered as if it fully met any matching requirement.

SEC. 1130. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

"(a) FACILITATION OF INDIAN CONTROL.—It shall be the policy of the United States acting through the Secretary, in carrying out the functions of the Bureau, to facilitate Indian control over education in all matters relating to education.

"(b) CONSULTATION WITH TRIBES.—

"(1) IN GENERAL.—All actions under this Act shall be done with active consultation with tribes. The United States acting through the Secretary, and tribes shall work in a government-to-government relationship to ensure quality education for all tribal members.

"(2) REQUIREMENTS.—The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered by the Secretary. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, unless the views and concerns of any interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request from a Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

"(c) INDIAN EDUCATION PERSONNEL.

"(1) DEFINITIONS.—In this section:

"(A) EDUCATION POSITION.—The term ‘education position’ means a position in the Bureau that has responsibilities for classroom or other instruction; or supervision or direction of classroom or other instruction;

"(B) ACTIVITY.—Any activity (other than teaching) that requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education.

"(iii) any activity in or related to the field of education, whether or not academic credits in education are a requirement for such activity.
educational theory and practice are a formal requirement for the conduct of such activity; or

(ii) provision of support services at, or associated with, the site of the school; or

(B) The agency level of the Bureau and involve the implementation of education-related programs, other than the position of agency superintendent for education.

(2) "Term educator" means an individual whose services are required, or who is employed, in an education position.

(b) CIVIL SERVICE AUTHORITIES—APPLICABLE—(1) Section 3332(a)(1)(A) and section 3332(a)(1)(B) of chapter 33, title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, employment, and removal of civil service employees, shall not apply to educators or to education positions.

(c) Not later than 90 days after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions relating to—

(1) the establishment of education positions; (2) the establishment of qualifications for education personnel; (3) the fiving of basic compensation for educators and education positions; (4) the appointment of educators; (5) the discharge of educators; (6) the entitlement of educators to compensation; (7) the payment of compensation to educators; and

(8) the conditions of employment of educators.

(B) the leave system for educators; (10) the length of the school year applicable to education positions described in subsection (a)(1)(A); and

(11) such matters as may be appropriate.

(d) QUALIFICATIONS OF EDUCATORS.—

(1) REQUIREMENTS.—In prescribing regulations to govern the qualifications of the educators, the Secretary shall—

(A) that lists of qualified and interviewed applicants for education positions be maintained in the appropriate agency or area office of the Bureau or, in the case of individuals applying at the national level, the Office; (B)(i) that a local school board have the authority to waive, on a case-by-case basis, any formal or informal education-related qualification established by regulation, in order for a tribal member to be hired in an education position to teach courses on tribal culture and language; and

(ii) that a determination by a local school board that such a tribal member be hired shall be instituted by the supervisor of the school involved;

(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level—

(i) that such individual's name appear on a list maintained pursuant to subparagraph (A); or

(ii) that such individual have applied at the national level for an education position. (2) CIVIL SERVICE EMPLOYMENT.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to authorize the employment would result in that position remaining vacant.

(e) HIRING OF EDUCATORS.—

(1) REQUIREMENTS.—In prescribing regulations to govern the appointment of educators, the Secretary shall—

(A)(i) that educators employed in a Bureau school (other than the supervisor of the school) shall be hired by the supervisor of the school; and

(ii) that, in a case in which there are no qualified applicants available to fill a vacancy at a Bureau school, the supervisor may consult a list maintained pursuant to subsection (d)(1)(A);

(iii) each supervisor of a Bureau school shall be notified of any educator line officer of the agency office of the Bureau for the jurisdiction in which the school is located;

(iv) each educator employed in an agency office of the Bureau shall be notified of the superintendent for education of the agency office; and

(v) each education line officer and educator employed in the office of the Director of the Office shall be notified of the superintendent for education of the agency office of the Bureau.

(2) EXCEPTION FOR CERTAIN TEMPORARY EMPLOYMENT.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to authorize the employment would result in that position remaining vacant.

(A) DETERMINATIONS.—The supervisor of a Bureau school may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

(B) BY EDUCATION LINE OFFICER.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

(3) STATUTORY CONSTRUCTION.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards authority over, or control of, educators at Bureau funded schools or the authority to issue management decisions.

(4) IN GENERAL.—

(A) DETERMINATIONS.—The supervisor of a Bureau school may appeal to the Director of the Office any determination by the Secretary to such supervisor identifying the reasons for overturning such determination.

(B) BY EDUCATION LINE OFFICER.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

(5) OTHER APPEALS.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

(6) PROCEDURES FOR DISMISSAL.—

(A) DETERMINATIONS.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (2)(B) for cause (as determined under regulations previously established by the Secretary) any educator employed in such school. On giving notice to an educator of the supervisor's intention to discharge the educator, the supervisor shall immediately notify the local school board of the proposed discharge. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor.
school board records, not to discharge an educator to the education line officer of the appropriate agency office of the Bureau. The Secretary shall have the right to overrule the determination of the local school board with respect to the employment of such individual. The education line officer shall make a determination and submit the decision to the local school board.

"(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right to recommend to the Director of the Office, that the supervisor of the school be discharged, and

"(A) to recommend to the supervisor that an educator employed in the school be discharged;

"(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor for the school be discharged.

"(g) APPLICABILITY OF INDIAN PREFERENCE LAWS.

"(1) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action carried out under this section with respect to an applicant or employee not entitled to an Indian preference, tribal organization, or concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary to implement the requirements of this title so that the Bureau may establish a rate of compensation or annual salary rate described in clause (ii) for teachers and counselors (including academic counselors) who are new hires at the school and who had not worked at a school, as of the first day of such fiscal year.

"(ii) CONSISTENT RATES.—The rates established under clause (i) shall be consistent with the rates paid for individuals in the same positions, with the same tenure and training, as the teachers and counselors, in any other school within whose boundaries the Bureau school is located.

"(ii) INCREASES.—In an instance in which the establishment of rates under clause (i) cause a reduction in compensation at a school caused from the rate of compensation that was in effect for the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the new rates of compensation may be applied to the compensation of employees of the school who worked at the school as of such date of enactment by applying the difference in the rates of compensation applicable to the employees so that the reduction takes effect in 3 equal installments.

"(g) DISCONTINUATION OF OR DECREASE IN RATES.—The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential rate provided for under this paragraph at the beginning of an academic year if

"(I) the local school board requests that such differential be discontinued or decreased; or

"(II) the Secretary or the supervisor, respectively, determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the discontinuation or decrease.

"(g) REPORTS.—On or before January 1 of each year, the Secretary shall submit to Congress a report describing the requests and approvals under this paragraph during the previous year and listing the positions receiving post differential rates under contracts entered into under those authorizations.

"(h) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining in the employee's credit in the employing agency for the period of employment with the Bureau before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(i) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who was employed in an education position on or before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remaining term of such contract.

"(j) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (a)(1)(A) who—

"(I) is employed at the end of an academic year;

"(II) agrees in writing to serve in such position for the next academic year, and

"(III) is employed in another position during the recess period immediately preceding such next academic year, or during such recess period the position in clause (i) is not considered a school position referred to in subsection (i); or

"(A) in the case of such individual who was employed in an education position on or before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(B) TRANSFER OF REMAINING LEAVE UPON TERMINATION.—The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential rate provided for under this paragraph at the beginning of an academic year if

"(I) the local school board requests that such differential be discontinued or decreased; or

"(II) the Secretary or the supervisor, respectively, determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the discontinuation or decrease.

"(g) REPORTS.—On or before January 1 of each year, the Secretary shall submit to Congress a report describing the requests and approvals under this paragraph during the previous year and listing the positions receiving post differential rates under contracts entered into under those authorizations.

"(h) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining in the employee's credit in the employing agency for the period of employment with the Bureau before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(i) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who was employed in an education position on or before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(j) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (a)(1)(A) who—

"(I) is employed at the end of an academic year;

"(II) agrees in writing to serve in such position for the next academic year, and

"(III) is employed in another position during the recess period immediately preceding such next academic year, or during such recess period the position in clause (i) is not considered a school position referred to in subsection (i); or
such section 5532 shall not apply to such educato-
by reason of any such employment during the recess period with respect to any receipt of additional compensation.

section 1342 of title 5, United States Code, the Secretary may, subject to the approval of the local school board, accept volunteer services on behalf of Bureau schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow Federal employees to displace or replace Federal employees. An individual pro-

section, the appropriate provisions of title 5,

SEC. 1132. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

SEC. 1133. RIGHTS OF INDIAN STUDENTS.

SEC. 1134. ADMINISTRATIVE EVALUATION OF SCHOOLS.

SEC. 1135. REGULATIONS.

SEC. 1136. REGIONAL MEETINGS.

SEC. 1137. REQUEST FOR DETERMINATION OR REGULATION.

SEC. 1148. ANNUAL REPORTS, AUDITS.

SEC. 1152. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

SEC. 1153. STIPENDS.

SEC. 1154. ANNUAL REPORT, AUDITS.

SEC. 1155. NEGOTIATED RULEMAKING.

SEC. 1156. EXPIRATION OF AUTHORITY.
under this part and under the Tribally C- trolled Schools Act of 1988, shall expire on the date that is 18 months after the date of enactment of this part. If the Secretary determines that continuation of the deadline under this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for an extension of such deadline.

(2) RULEMAKING AUTHORITY.—The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In estab- lishing such committee, the Secretary shall—
(A) use the procedures provided for under subchapter III of chapter 5 of title 5, United States Code, in a manner that reflects the unique federalism-governments relationship between Indian tribes and the United States;
(B) ensure that the membership of the committee includes only representatives of the Fed- eral Government and of tribes served by Bureau-funded schools;
(C) select the tribal representatives of the committee from among individuals nominated by the tribe or tribal organizations to fund early childhood development programs that are so authorized;
(D) ensure, to the maximum extent possible, that the tribal representative membership on the committee reflects the proportionate share of students from tribes served by the Bureau-funded school system; and
(E) select the members of the Federal Advisory Committee (5 U.S.C. App. 2).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as necessary to carry out the negotiated rulemaking proceedings from the general administrative funds of the Dep- artment of the Interior.

(5) AMOUNT OF GRANTS.—The provisions of this section shall supersede any con- flicting provisions of law (including any con- flicting regulations) in effect on the day before the date of enactment of this part, and the Sec- retary may repeal any regulation that is incon- sistent with the provisions of this part.

(6) MODIFICATIONS.—The Secretary may modify regulations promulgated under this section or the Tribally Controlled Schools Act of 1988, only in accordance with this section.

*SEC. 1157. EARLY CHILDHOOD DEVELOPMENT PROGRAM

(a) GRANTS.—The Secretary shall make grants to tribes, tribal organizations, and con- sortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The amount of the grant made under subsection (a) to each eligible tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount that bears the same rela- tionship to the total amount appropriated under subsection (g) for such fiscal year (other than amounts appropriated under subsection (f)) as—
(A) the total number of children under age 6 who are members of—
(i) such tribe;
(ii) the tribe that authorized such tribal or- ganization; or
(iii) any of the tribes that—
(I) is a member of such consortium; or
(II) so authorizes any tribal organization that is a member of such consortium; bears to
(B) the total number of children under age 6 who are members of any tribe that—
(i) is eligible to receive funds under sub- section (a); or
(ii) is a member of a consortium that is eligi- ble to receive such funds; or
(iii) is authorized by any tribal organization that is eligible to receive such funds.

(2) LIMITATION.—No grant may be made under subsection (a)—

(A) to any tribe that has fewer than 500 members;
(B) to any tribal organization that is author- ized to act—
(i) on behalf of only 1 tribe that has fewer than 500 members; or
(ii) on behalf of 1 or more tribes that have a combined total membership of fewer than 500 members;
(C) to any consortium composed of tribes, or tribal organizations authorized by tribes to act as such, that have a combined total tribal membership of fewer than 500 mem- bers.

(2) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a tribe, tribal organi- zation, or consortium shall submit to the Sec- retary an application for such grant at such time and in such manner, and containing such informa- tion as the Secretary shall prescribe.

(2) CONTENTS.—An application submitted under paragraph (1) shall describe the early childhood development program that the appli- cant desires to operate.

(b) REQUIREMENT OF PROGRAM FUNDS.—

In operating an early childhood development program that is funded through a grant made under subsection (a), a tribe, tribal organiza- tion, or consortium—

(1) shall coordinate the program with other childhood development programs and may pro- vide services to the parents of, and patients, and children under age 6, that are not being met by the programs, including needs for—
(A) prenatal care;
(B) nutrition education;
(C) health education and screening;
(D) family literacy services;
(E) educational testing; and
(F) other educational services;
(2) may increase childhood de- velopment programs funded through the grant, instruction in the language, art, and culture of the tribe served by the program; and
(3) shall provide for periodic assessments of the program.

(c) COORDINATION OF FAMILY LITERACY PRO- GRAM.—An entity that operates a family lit- eracy program under this section or another similar program funded by the Bureau shall co- ordinate the program involved with family literacy programs for Indian children carried out under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemi- nation of information on quality family literacy programs serving Indians.

(d) ADMINISTRATIVE COSTS.—The Secretary shall reimburse under section 103(a) of the Indian Self-Determination and Education Assistance Act for any administrative costs incurred by the tribe, tribal organization, or consortium involved in establishing and maintaining the early childhood development program.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.

*SEC. 1158.部落 DEPARTMENTS OR DIVISIONS OF EDUCATION

(a) IN GENERAL.—Subject to the availability of appropriated funds, a grant pro- vided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

(b) TERMS, CONDITIONS, OR REQUIREMENTS.—

(1) TERMS, CONDITIONS, OR REQUIREMENTS.— A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 103(a) of the Indian Self-Determination and Education Assistance Act that are in effect on the date that the tribal gov- erning body submits the application for the grant under subsection (c). The Secretary shall not impose any terms, conditions, or require- ments on the provisions of this section that are not specified in this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—

For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003, 2004, 2005, and 2006.

*SEC. 1159. DEFINITIONS

In this part, unless otherwise specified:

(1) AGENCY SCHOOL BOARD.—The term 'agency school board' means a body, for which—

(2) TRIBAL SELF-DETERMINATION PROGRAMS.— (A) grant made under section 103(a) of the Indian Self-Determination and Education Assistance Act for any administrative costs incurred by the tribe, tribal organization, or consortium involved in establishing and maintaining the early childhood development program.

(b) REQUIREMENT OF PROGRAM FUNDS.—

In operating an early childhood development program that is funded through a grant made under subsection (a), a tribe, tribal organiza- tion, or consortium shall submit to the Sec- retary an application for such grant at such time and in such manner, and containing such informa- tion as the Secretary shall prescribe.

(2) CONTENTS.—An application submitted under paragraph (1) shall describe the early childhood development program that the appli- cant desires to operate.

(b) REQUIREMENT OF PROGRAM FUNDS.—

In operating an early childhood development program that is funded through a grant made under subsection (a), a tribe, tribal organiza- tion, or consortium shall coordinate the program with other childhood development programs and may pro- vide services to the parents of, and patients, and children under age 6, that are not being met by the programs, including needs for—

(A) prenatal care;
(B) nutrition education;
(C) health education and screening;
(D) family literacy services;
(E) educational testing; and
(F) other educational services;
(2) may increase childhood de- velopment programs funded through the grant, instruction in the language, art, and culture of the tribe served by the program; and
(3) shall provide for periodic assessments of the program.

(c) COORDINATION OF FAMILY LITERACY PRO- GRAM.—An entity that operates a family lit- eracy program under this section or another similar program funded by the Bureau shall co- ordinate the program involved with family literacy programs for Indian children carried out under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemi- nation of information on quality family literacy programs serving Indians.

(d) ADMINISTRATIVE COSTS.—The Secretary shall reimburse under section 103(a) of the Indian Self-Determination and Education Assistance Act for any administrative costs incurred by the tribe, tribal organization, or consortium involved in establishing and maintaining the early childhood development program.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.

*SEC. 1158.部落 DEPARTMENTS OR DIVISIONS OF EDUCATION

(a) IN GENERAL.—Subject to the availability of appropriated funds, a grant pro- vided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

(b) TERMS, CONDITIONS, OR REQUIREMENTS.—

(1) TERMS, CONDITIONS, OR REQUIREMENTS.— A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 103(a) of the Indian Self-Determination and Education Assistance Act that are in effect on the date that the tribal gov- erning body submits the application for the grant under subsection (c). The Secretary shall not impose any terms, conditions, or require- ments on the provisions of this section that are not specified in this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—

For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003, 2004, 2005, and 2006.

*SEC. 1159. DEFINITIONS

In this part, unless otherwise specified:

(1) AGENCY SCHOOL BOARD.—The term 'agency school board' means a body, for which—
“(i) the members are appointed by all of the school boards of the schools located within an agency, including schools operated under contracts or grants; and

“(ii) the Secretary of such members shall be determined by the Secretary in consultation with the affected tribes.

“(B) EXCEPTIONS.—In the case of an agency serving a single education school, the school board of such school shall be considered to be the agency school board.

“(A) in the case of an agency serving a school or schools operated under a contract or grant, the membership of the body described in subparagraph (A) shall be from such a school.

“(B) _BUREAU._—The term ‘Bureau’ means the Bureau of Indian Affairs of the Department of the Interior.

“(C) _BUREAU FUNDED SCHOOL._—The term ‘Bureau funded school’ means—

“(A) a Bureau school;

“(B) a contract or grant school; or

“(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

“(D) _BUREAU SCHOOL._—The term ‘Bureau school’ means—

“(A) a Bureau operated elementary school or secondary school that is a day or boarding school; or

“(B) a Bureau operated dormitory for students attending a school other than a Bureau school.

“(E) _COMPLEMENTARY EDUCATIONAL FACILITIES._—The term ‘complementary educational facilities’ means educational program functional spaces including a library, gymnasium, and cafeteria.

“(F) _CONTRACT OR GRANT SCHOOL._—The term ‘contract or grant school’ means an elementary school, secondary school, or dormitory that receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

“(G) _DIRECTOR._—The term ‘Director’ means the Director of the Office of Indian Education Programs.

“(H) _EDUCATION LINE OFFICER._—The term ‘education line officer’ means a member of the education personnel under the supervision of the Director of the Office, whether located in a central area, or agency office.

“(I) _INDIAN ORGANIZATION._—The term ‘Indian organization’ means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

“(J) _INHERENTLY FEDERAL FUNCTIONS._—The term ‘inherently Federal functions’ means functions which, under section 1125(c), are non-contractible, including—

“(A) the allocation and obligation of Federal funds and determinations as to the amounts of such funds and determinations as to the amounts of such funds to be spent are approved by their tribal governing bodies) to operate the schools; and

“(B) the administration of Federal personnel laws for Federal employees;

“(C) the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust, programmatic, and fiscal responsibilities of the Secretary; and

“(D) the conducting of administrative hearings and deciding of administrative appeals;

“(E) the determination of the Secretary’s views and recommendations concerning administrative appeals or litigation and the representation of the Secretary in administrative appeals and litigation;

“(F) the issuance of Federal regulations and policies as well as any documents published in the Federal Register;

“(G) reporting to Congress and the President; and

“(H) the formulation of the Secretary’s and the President’s policies and their budgetary and legislative recommendations and views; and

“(I) the exercise of the duties of the Secretary relating to trust resources.

“(J) _LOCAL EDUCATIONAL AGENCY._—The term ‘local educational agency’ means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, city, or school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

“(K) _LOCAL SCHOOL BOARD._—The term ‘local school board’, when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe and State, other than the tribal governing body of the affected tribe, and includes any State agency that directly operates and maintains facilities for providing free public education.

“(L) _REGULATION._—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out the major Federal function.

“(M) _SECRETARY._—The term ‘Secretary’ means the Secretary of the Interior.

“(N) _SUPERVISOR._—The term ‘supervisor’ means the individual in the position of ultimate authority at a Bureau school.

“(O) _TRIBAL GOVERNING BODY._—The term ‘tribal governing body’ means, with respect to any school, the tribal governing body, or tribal, in the governing bodies, one that represents at least 90 percent of the students served by such school.

“(P) _TRIBAL SCHOOL._—The term ‘tribal school’ means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Regional Corporation or Village Corporation (as defined in or established pursuant to section 160(b)(1) of the Indian Reorganization Act of 1934), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

”Subtitle B—Tribally Controlled Schools Act of 1988

SEC. 1221. TRIBALLY CONTROLLED SCHOOLS.

Sections 5202 through 5213 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) are amended to read as follows:

“SEC. 5202. FINDINGS.

“Congress, after careful review of the Federal Government’s historical and special legal responsibilities to, and resulting responsibilities of, Indians, finds that—

“(1) the Indian Self-Determination and Education Assistance Act, which was a product of the long tradition of recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community self-government;

“(2) because of the Bureau of Indian Affairs’ administration and domination of the contract process under such Act, Indians have not been able to develop leadership skills crucial to the realization of self-government and have been denied an effective voice in the planning and implementation of programs of education that are responsive to the true needs of Indian communities;

“(3) Indians will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons;

“(4) true self-determination in any society of people is dependent upon an educational process that will assure the development of qualified people to fulfill meaningful leadership roles;

“(5) the Federal education policy for Indian children has not obtained the desired level of educational achievement or created the diverse opportunities and personal satisfaction that education can and should provide;

“(6) true local control requires the least possible Federal interference; and

“(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

“SEC. 5203. DECLARATION OF POLICY.

“(A) _RECOGNITION._—Congress recognizes the obligation of the United States to the strong expression of the Indian people, for self-determination by assuring maximum Indian participation in the direction of educational services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities.

“(B) COMMITMENT.—Congress declares its commitment to the maintenance of the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people through the enactment of a meaningful Federal self-determination policy for education that will deter further perpetuation of Federal bureaucratic domination of programs.

“(C) NATIONAL GOAL.—Congress declares that a major national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quality and quantity of educational services and opportunities that will permit Indian children—

“(1) to compete and excel in the life areas of their choice and

“(2) to achieve the measure of self-determination essential to their social and economic well-being.

“SEC. 5204. EDUCATIONAL NEEDS.—Congress affirms—

“(1) the reality of the special and unique educational needs of Indian people, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities;

“(2) that the needs must be met through a grant process and

“(c) _FEDERAL RELATIONS._—Congress declares a commitment to the policies described in this section and support, to the full extent of constitutional responsibility for Federal relations with the Indian nations.

“(d) _TERMINATION._—Congress repudiates and rejects House Concurrent Resolution 188 of the 92d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

“SEC. 5205. GRANTS AUTHORIZED.

“(a) _IN GENERAL._—

“(1) ELIGIBILITY.—The Secretary shall provide grants to Indian tribes and tribal organizations that—

“(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing to operate such schools as contract schools under such title;

“(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

“(C) elect to assume operation of Bureau funded schools with the assistance provided under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

“(b) _AMOUNT OF FUNDS._—Funds made available through a grant provided under this part shall be deposited into the general operating
fund of the tribally controlled school with respect to which the grant is made.

"(3) Use of Funds.—

(A) Education related activities.—Except as otherwise determined by the Secretary, if the grant is paid directly to the school or as a school operated under a contract with a tribally controlled school (as defined in section 1126 of the Education Amendments of 1965; or (2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds allocated for such fiscal year under—

(i) title I of the Elementary and Secondary Education Act of 1965; or

(ii) any Federal education law other than title XI of the Education Amendments of 1978.

(B) Other Bureau Requirements.—Indian tribes and tribal organizations to which grants are provided under this part for any tribally controlled school for which such grants are provided, shall not subject to any requirements, obligations, restrictions, or limitations imposed by any Federal law that work solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii) or (iii) of subparagraph (A).

(2) Schools Considered Contract Schools.—Tribally controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds under sections 1125(e), 1126, and 1127 of the Education Amendments of 1978.

(3) Schools Considered Bureau Schools.—Title I of the Elementary and Secondary Education Act of 1965.

(4) FUNDING FOR FACILITIES AND IMPROVEMENTS.—Nothing in this part may be construed—

(A) to allow any person to coerce any tribe or tribal organization to apply for, or accept, a grant under this part to plan, conduct, and administrate the education services for any similar activities, including expenditures under the laws described in section 5205(a), or any similar activities, including expenditures for—

(i) school operations, and academic, educational, residential, guidance and counseling, and administrative services, and support services for such school operations and maintenance for the school for which such grants are provided, be used to defray operations and maintenance expenditures for the school for any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

(B) WAIVER OF FEDERAL TORT CLAIMS ACT.—Notwithstanding section 314 of the Department of Interior Appropriations Act, 1991 (Public Law 101-512), the Federal Tort Claims Act shall not apply to a program operated by a tribally controlled school if the program is funded through the Bureau.

(C) OPERATIONS AND MAINTENANCE EXPENDITURES.—Funds made available through a grant provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school for any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

(D) AMOUNT OF FUNDS AVAILABLE.—Funds made available through a grant provided under this part may not be expended for administrative cost (as defined in section 1127(a)) to the extent in excess of the amount generated for such cost under the formula established in section 1127 of such Act.

(E) TRANSFER OF EQUIPMENT AND MATERIALS.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded shall transfer to the Secretary (or to the tribe or tribal organization that will operate the program as a contract school) the existing property and equipment that were acquired—

(A) with assistance under this part; or

(B) upon assumption of operation of the program under this part if the school was a Bureau funded school before receiving assistance under this part.

(F) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

(2) SEC. 5205. COMPOSITION OF GRANTS.

(A) IN GENERAL.—The funds made available through a grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(i) the total amount of funds allocated for such fiscal year under sections 1126 and 1127 of the Education Amendments of 1978 with respect to the provisions of this part and shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(1) title I of the Elementary and Secondary Education Act of 1965; or

(2) any Federal education law other than title XI of the Education Amendments of 1978.

(B) OTHER BUREAU REQUIREMENTS.—Indian tribes and tribal organizations to which grants are provided under this part for any tribally controlled school for which such grants are provided, shall not subject to any requirements, obligations, restrictions, or limitations imposed by any Federal law that work solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii) or (iii) of subparagraph (A).

(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools for the purposes of allocation of funds provided under—

(A) title I of the Elementary and Secondary Education Act of 1965.

(B) the Individuals with Disabilities Education Act.

(C) any other Federal education law, that are distributed through the Bureau.

(3) USE OF FUNDS.—

(A) SEPARATE ACCOUNT.—Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor) in excess of administrative cost (as defined in section 1127(a)) that are distributed to a Federally recognized tribe, or tribal organization, the Secretary shall provide to any Indian tribe served by such grant funds for new construction or renovation (major or minor), health and safety, or other purposes for which such grant funds were appropriated, shall be subject to the disbursement, management, and accounting requirements that are established by the title I of the Elementary and Secondary Education Act of 1965.

(B) REQUIREMENTS FOR PROJECTS.—

(1) Regulatory Requirements.—With respect to any project that is assisted under any law referred to in section 1126(e), 1127 of the Education Amendments of 1978 and for which funds are received under any other provision of law, for transportation costs for such school;

(ii) the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination and Education Assistance Act; and

(iii) any Federal education law other than title I of the Elementary and Secondary Education Act of 1965.

(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—In considering applications for a grant described in such clause, the Secretary shall consider whether the Indian tribe or tribal organization is sufficiently in assuring that the construction projects under the proposed grant conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required under section 1124 of the Education Amendments of 1978 (25 U.S.C. 2605(a)) with respect to organizational and financial management capability and under—

(3) APPLICATIONS.—In considering applications for a grant described in clause (i), the Secretary shall consider whether the Indian tribe or tribal organization is sufficiently in assuring that the construction projects under the proposed grant conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required under section 1124 of the Education Amendments of 1978 (25 U.S.C. 2605(a)) with respect to organizational and financial management capability and under—

(iv) DISPUTES.—Any disputes between the Secretary and any tribe or tribal organization with respect to any grant made under this part shall be subject to the dispute provisions contained in section 5209(e).

(C) NEW CONSTRUCTION.—Notwithstanding subparagraph (A), a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal governing body or tribal
organization that submits the application for the grant provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

(2) The appropriations measure under which the funds described in subparagraph (A) are made available or the application submitted for the funds does not stipulate a condition that requires funds to be covered by the funds the Secretary and the grant recipient shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grant recipient.

(5) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) be deemed to have approved such request; and

(ii) immediately upon the expiration of such 180-day period amend the grant accordingly.

(B) DETERMINATION.—By not later than 180 days after the filing of the request, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(6) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(7) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(8) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(9) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(10) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(11) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(12) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(13) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(14) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(15) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part.

(16) ENFORCEMENT OF REQUEST TO INCLUDE

(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization a determination by the Secretary as to whether the school is eligible for assistance under this part, the Secretary shall—

(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this part. 
"(I) DENIAL OF APPLICATIONS.—

(1) IN GENERAL.—If the Secretary disapproves a grant under this part, disapproves the transfer of operations of a Bureau school under section (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization involved within the allotted time;

(B) provide assistance to the tribe or tribal organization involved in reconsidered applications;

(C) at the request of the tribe or tribal organization, provide to the tribe or tribal organization a hearing on the record regarding the revocation, or reappointment, under the same rules and regulations as apply under the Federal Self-Determination and Education Assistance Act; and

(D) provide to the tribe or tribal organization an opportunity to appeal the decision resulting from the hearing.

(2) TIMELINE FOR RECONSIDERATION OF AMENDED APPLICATIONS.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary and shall make determinations of the Secretary with respect to such reconsideration to the tribe under this part within 60 days after the amended application is submitted.

(3) REPORT.—The Bureau shall prepare and submit to Congress an annual report on all applications received, and actions taken (including the costs associated with such actions), under this section on the same date as the date on which the annual report required under section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(4) ANNUAL REPORTS.—

(1) IN GENERAL.—Each recipient of a grant provided under this part for a school shall prepare and submit to the Secretary, concerning the school involved, the contents of which shall be limited to—

(A) an annual financial statement reporting revenue and expenses as defined by cost accounting standards established by the grant recipient;

(B) an annual financial audit conducted pursuant to the standards of chapter 71 of title 31, United States Code;

(C) a biennial compliance audit of the procurement of personal property during the period for which the report is being prepared that shall be in compliance with written procurement standards that are developed by the local school board; and

(D) an annual submission to the Secretary containing information on the number of students served and a brief description of programs offered by the school.

(2) EVALUATION REVIEW TEAMS.—In appropriate cases, representatives of other tribally controlled schools and representatives of tribally controlled community colleges shall be members of the evaluation review teams.

(3) EVALUATIONS.—In the case of a school that is accredited, the evaluations required under this subsection shall be conducted at intervals under the terms of the accreditation.

(4) SUBMISSION OF REPORT.—

(A) TO TRIBAL GOVERNING BODY.—Upon completion of the annual report required under paragraph (1), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body.

(B) TO SECRETARY.—Not later than 30 days after receiving written confirmation that the application was accepted, the Secretary shall send to the Department of the Treasury a copy of each such annual report to the tribal governing body.

(4) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

(5) HEARING AND APPEAL.—In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school an opportunity to implement the remedial action.

(6) APPLICABILITY OF SECTION PERSPECTIVE TO ELECTORAL ACTION UNDER SECTION 5209(b).—With respect to a tribally controlled school that receives assistance under this part pursuant to an election made under section 5209(b)—

(1) subsection (b) shall apply; and

(2) the Secretary shall make payments to grant recipients under this part except in conformity with subsection (c).

(7) PAYMENT OF GRANTS; INVESTMENT OF EXCESS STATE PAYMENTS TO SCHOOLS.

(1) PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this section, the Secretary shall make payments to grant recipients under this part in 2 equal installments.

(B) TO SECRETARY.—Not later than 30 days after the final determination that the school was not eligible for assistance under this part except in conformity with subsection (c).

(C) TO GRANT RECIPIENT.—The Secretary shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was not eligible for assistance under this part except in conformity with subsection (c).

(2) REIMBURSEMENT OF FUNDS.—For any school for which no payment under this part was made from Bureau funds in the academic year preceding the year for which the payments are being made, full payment of the amount computed for the school for the first academic year of eligibility under this part shall be made not later than December 1 of each year.

(B) EXCESS FUNDING.—In a case in which the amount provided to a grant recipient under subparagraph (1)(i) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the excess amount shall be returned to the Secretary such excess amount not later than 30 days after the final determination that the school was not eligible for assistance under this part except in conformity with subsection (c).

(3) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

(4) HEARING AND APPEAL.—In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school an opportunity to implement the remedial action.

(5) APPLICABILITY OF CERTAIN TITLE 31 PROVISIONS.—The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made under paragraphs (1), (2), and (3).
SEC. 5200. INVESTMENT OF FUNDS.—

(a) IN GENERAL.—(1) TREATMENT OF INTEREST AND INVESTMENT INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues or is derived from any funds provided under this part for a school after such funds are paid to an Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization. The interest or income shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance to be provided, under any provision of Federal law.

(2) PENNSYLVANIA.—Funds provided under this part may be invested by an Indian tribe or tribal organization, as approved by the grantee, before such funds are expended for the purposes of this part if such funds are—

(A) invested by the Indian tribe or tribal organization only—

(i) in obligations of the United States;

(ii) in obligations or securities that are guaranteed or insured by the United States; or

(iii) in mutual (or other) funds that are registered with the Securities and Exchange Commission and that only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

(B) to accounts that are insured by an agency or instrumentality of the United States, or are fully supported by collateral to ensure protection of the funds, even in the event of a bank failure.

(c) PAYMENTS TO STATE.—

(1) IN GENERAL.—With respect to a school that receives assistance under this part, a State shall not take—

(A) into account the amount of such assistance in determining the amount of funds that such school is eligible to receive under applicable State law; or

(B) reduce any State payments that such school is eligible to receive under applicable State law because of the assistance received by the school under this part.

(2) IN GENERAL.—(A) IN GENERAL.—Upon receipt of any information from any source that a State is in violation of paragraph (1), the Secretary shall immediately begin an investigation and make a determination as to whether such violation has occurred.

(B) DETERMINATION.—If the Secretary makes a determination under subparagraph (A) that a State has violated paragraph (1), the Secretary shall inform the Secretary of Education of such determination and the basis for the determination. The Secretary of Education shall, in an expedient manner, pursue penalties under paragraph (3) with respect to the State.

(3) PENALTIES.—A State determined to have violated paragraph (1) shall be subject to penalties similar to the penalties described in section 8809(e) of the Elementary and Secondary Education Act of 1965 for a violation of title VIII of such Act.

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof) shall apply to grants provided under this part and the schools funded under such grants:

(1) Section 5(f) (relating to single agency agreements).

(2) Section 6 (relating to criminal activities; penalties).

(3) Section 7 (relating to wage and labor standards).

(4) Section 104 (relating to retention of Federal employee coverage).

(5) Section 105(f) (relating to Federal properly).

(6) Section 105(k) (relating to access to Federal sources of supply).

(7) Section 105(i) (relating to lease of facility used for administration and delivery of services).

(8) Section 106(i) (relating to limitation on remedies relating to cost disallowances).

(9) Section 107(b) (relating to use of funds for matching or cost participation requirements).

(10) Section 106(k) (relating to allowable uses of funds).

(11) The portions of section 108(c) that consist of model agreements provisions 1(b)(5) (relating to limitations of costs), 1(b)(7) (relating to records and monitoring), 1(b)(8) (relating to property), and 1(b)(9) (relating to availability of funds).

(12) Section 109 (relating to reassignment).

(13) Section 111 (relating to sovereign immunity and trust relationship).

(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

(1) IN GENERAL.—A contractor that carries out an activity to which this part applies and who has entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect on the date of enactment of the Native American Education Improvement Act of 2001 may, by giving notice to the Secretary, elect to receive a grant under this part in lieu of such contract and to have the provisions of this part apply to such activity.

(2) EFFECTIVE DATE OF ELECTION.—Any election made under paragraph (1) shall take effect on the first day of July immediately following the date of such election.

(3) EXCEPTION.—In any case in which the first day of July immediately following the date of an election under paragraph (1) is less than 60 days after such election, such election shall not take effect until the first day of July of year following the year in which the election is made.

(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay expenses incurred in the event of a bank failure. If a grant has been made under this part to pay such expenses.

(d) TRANSFERS AND CARRYOVERS.—

(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A Tribal organization assuming the operation of—

(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if the tribe or tribal organization were contracting under the Indian Self-Determination and Education Assistance Act; or

(B) a contract school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if the tribe or tribal organization were contracting under such Act.

(2) FUMDS.—Any tribe or tribal organization that assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization that elects to operate a school with assistance under this part that continues to operate the school as a contract school shall be entitled to any funds that would remain available from the previous fiscal year if such school remained a Bureau school of was operated as a contract school, respectively.

(3) FUNDING FOR SCHOOL IMPROVEMENT.—Any tribe or tribal organization that assumes operation of a Bureau school with assistance under this part shall be eligible for funding for the improvement, alteration, replacement, and repair of facilities to the same extent as a Bureau school.

(4) EXCEPTIONS, PROBLEMS, AND DISPUTES.—

(a) GENERAL.—Any exception or problem cited in an audit conducted under section 5207(b)(1)(B), any dispute regarding a grant authorized to be made pursuant to this part or any modification of such grant, and any dispute involving the administration of a contract under section 1127 of the Education Amendments of 1978, shall be administered under the provisions governing such exceptions, problems, or disputes described in this paragraph in the case of contracts under the Indian Self-Determination and Education Assistance Act.

(b) ADMINISTRATIVE APPEALS.—The Equal Access to Justice Act (as amended) and the amendments made by such Act, including section 304 of title 5, and section 2412 of title 28, United States Code, shall apply to an administrative appeal filed after September 8, 1988, by a grant recipient regarding a grant provided under this part, including an administrative cost grant.

SEC. 5210. ROLE OF THE DIRECTOR.

Applications for grants under this part, and all modifications to the applications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Reports required under this part shall be submitted to education personnel under the direction and control of the Director.

SEC. 5211. REGULATIONS.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary in this part. For all other matters relating to the details of planning, developing, implementing, and evaluating grants under this part, the Secretary shall not issue regulations.

SEC. 5212. THE TRIBALLY GRANTED CONTRACT SCHOOL ENDOWMENT PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Each school receiving a grant under this part may establish, at a federally insured financial institution, a trust fund for the purpose of this section.

(b) DEPOSITS AND USE.—The school may provide—

(A) for deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received under this part may be used for that purpose;

(B) for deposit into the trust fund, any earnings on funds deposited in the fund; and

(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, which may at any time be used, sold, or otherwise disposed of.

(2) INVESTMENT.—Interest from the fund established under subsection (a) may be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school consistent with the purposes of this Act.

SEC. 5213. DEFINITIONS.

(a) IN GENERAL.—The term ‘Bureau’ means the Bureau of Indian Affairs of the Department of the Interior.

(b) ELIGIBLE INDIAN STUDENT.—The term ‘eligible Indian student’ has the meaning given such term in section 1126(f) of the Education Amendments of 1978.

(c) INDIAN.—The term ‘Indian’ means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

(d) INDIAN TRIBE.—The term ‘Indian tribe’ means a tribe of the Indian countries, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the
United States to Indians because of their status as Indians.

"(5) LOCAL EDUCATIONAL AGENCY.—The term `local educational agency' means a public board of education or other public agency 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 such combination of school districts or counties as are recognized in a State as an administrative agency for the State's public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

"(6) SECRETARY.—The term `Secretary' means the Secretary of the Department of Education.

"(7) TRIBAL GOVERNING BODY.—The term `tribal governing body' means, with respect to any school that receives assistance under this Act, the recognized governing body of the Indian tribe involved.

"(8) TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—The term `tribal organization' means—

(i) the recognized governing body of any Indian tribe; or

(ii) any legally established organization of Indian tribes that—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the Indian community to be served by such organization; and

(II) includes the maximum participation of Indians in all phases of the organization's activities.

"(B) AUTHORIZATION.—In any case in which a grant is provided under this Act to an organization to provide services through a tribally controlled school benefiting more than 1 Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of the students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

"(9) TRIBALLY CONTROLLED SCHOOL.—The term `tribally controlled school' means a school that—

"(A) is operated by an Indian tribe or a tribal organization, enrolling students in kindergarten through grade 12, including a preschool;

"(B) is not a local educational agency; and

"(C) is not directly administered by the Bureau of Indian Affairs.

SEC. 1222. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.


(1) by striking the matter preceding paragraph (1) and inserting the following:

"(a) IN GENERAL.—The Secretary of the Interior shall not make continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau is making or may make such payments (whether such person is an Indian or an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—;

and

(2) by striking paragraph (4), and inserting the following:

"(4) other programs or training approved by the Secretary or by tribal education, employment or training programs.

TITLE XIII—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

SEC. 1301. SHORT TITLE.

This title may be cited as the `Boy Scouts of America Equal Access Act'.

SEC. 1302. EQUAL ACCESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group.

"(b) LEASE.—A lease described in this subsection is a lease that—

(1) is entered into by the Ojibwa Indian School for the use of facilities owned by St. Ann's Catholic Church located in Belcourt, North Dakota;

(2) is entered into in the 2001–2002 school year, or any other school year in which the Ojibwa Indian School will use such facilities for school purposes;

(3) requires lease payments in an amount determined appropriate by an independent lease appraiser that is selected by the parties to the lease, except that such amount may not exceed the amount per square foot that is being paid by the Bureau of Indian Affairs for other similarly situated Indian schools under the Indian Self-Determination and Education Assistance Act (Public Law 93–383), and

(4) contains a waiver of the right of St. Ann's Catholic Church to bring an action against the Ojibwa Indian School, the Turtle Mountain Band of Chippewa, or the Federal Government for the recovery of any amounts remaining un-paid under leases entered into prior to the date of enactment of this Act.

(b) METHOD OF FUNDING.—Amounts shall be made available by the Bureau of Indian Affairs to make lease payments under this section in the same manner as is done by the Secretary under the Indian Self-Determination and Education Assistance Act (Public Law 93–383)."
of the United States Code as a patriotic society, including the Boy Scouts of America, based on that group’s favorable or unfavorable position concerning sexual orientation.

TITLE XI—EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 1601. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Act (20 U.S.C. 6301 et seq.) is amended by adding at the end the following:

"TITLE XI—EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—READING IS FUNDAMENTAL—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

SEC. 11101. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVA-

(a) PURPOSE.—The purpose of this section is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading and motivate older children to read, through the distribution of inexpensive books. Local reading motivation programs assisted under this section shall use such assistance to provide books, training for volunteers, motivational activities, and other essential literacy resources, and shall assign the highest priority to serving the young-est and neediest children in the United States.

(b) AUTHORIZATION.—The Secretary is au-

thorized to enter into a contract with Reading Is Fundamental (RIF) (hereafter in this section referred to as ‘RIF’), the parent organization, and the local educational agency or accredited school district, if the local educational agency or accredited school district in the child’s community agrees to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

(1) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

(1) the contractor believes that such sub-

contract will provide the subcontractor with ad-

ditional leverage in seeking local commitments; and

(2) the subcontract does not undermine the finances of the national program.

(2) DEFINITION OF FEDERAL SHARE.—For the purpose of this section, the term ‘Federal share’ means, with respect to the cost to a subcon-

tractor of purchasing books to be purchased under this section, 75 percent of such costs to the sub-

contractor, except that the Federal share for programs serving children of migrant or sea-

sonal farmworkers shall be 100 percent of such costs to the subcontractor.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of this section, if—

(a) FINDINGS.—Congress finds that—

(1) the United States faces a continuing cri-

sis in 75 percent of schools serving children who are not proficient in reading—child, and

(2) the writing problem has been magnified by the rapidly changing student population, the growing number of at-risk students due to lim-

ited English proficiency, the shortage of ade-

quately trained teachers, and the specialized knowledge required of teachers to teach stu-

dents with special needs who are now part of mainstream classrooms;

(2) nationwide reports from universities and other educational institutions show that reading and writing are essential skills for all students, and that the problem is not limited to low-income students; and

(4) American businesses and corporations are concerned about the limited writing skills of their high-level employees, whose promotions are denied due to inadequate writing abilities.

(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such program.

(d) RESTRICTION ON PAYMENTS.—The Sec-

retary shall not make a payment of the Federal share of the cost of acquiring and distributing books under a subcontract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distribu-

tors to obtain books at discounts at least as fa-

vorable as discounts that are customarily given by such publisher or distributor for book pur-

chases made under similar circumstances.

(e) SPECIAL RULES FOR CERTAIN SUB-

CONTRACTORS.

(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating programs under this section in low-income communities with a sub-

stantial number or percentage of children with special needs, as described in subsection (c)(3), may use funds from other Federal sources to pay the non-Federal share of the cost of the books for which the contractor waives, its share of the non-Federal share of the funds used for the cost of acquiring and distrib-

uting books.

Wavier Authority.—Notwithstanding subsection (c), the contractor may waive, in whole or in part, the requirement in subsection (c)(1) for a subcontractor, if the subcontractor demonstrates that it would otherwise be unable to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

(2)MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

(1) the contractor believes that such sub-

contract will provide the subcontractor with ad-

ditional leverage in seeking local commitments; and

(2) the subcontract does not undermine the finances of the national program.

SEC. 11115. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States faces a continuing cri-

sis in 75 percent of schools serving children who are not proficient in reading—child, and

(2) the writing problem has been magnified by the rapidly changing student population, the growing number of at-risk students due to lim-

ited English proficiency, the shortage of ade-

quately trained teachers, and the specialized knowledge required of teachers to teach stu-

dents with special needs who are now part of mainstream classrooms;
"(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs in which teacher leaders of all grade levels collaborate with teachers to improve student achievement in writing and student learning through improving the teaching and uses of writing at all grade levels in and across disciplines;"

"(8) the National Writing Project is a nationally recognized and honored nonprofit organization that improves the quality of teaching and learning through developing teacher-leaders who teach other teachers in summer and school year programs;"

"(9) evaluations of the National Writing Project document the positive impact the project has had on developing student writing and student learning;"

"(10) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, reading and literature, performing arts, and foreign languages;"

"(11) each year, over 150,000 participants benefit from National Writing Project programs in 1 of 156 United States sites located in 46 States and the Commonwealth of Puerto Rico; and"

"(12) the National Writing Project is a cost-effective program and leverages over 6 dollars for every 1 Federal dollar.

(b) PURPOSE.—It is the purpose of this part—

(1) to support and promote the expansion of National Writing Project programs so that teachers in every region of the United States will have access to a National Writing Project program;

(2) to ensure the consistent high quality of the sites through rigorous review, evaluation and technical assistance;

(3) to support and promote the establishment of programs to disseminate effective practices and research findings about the teaching of writing; and

(4) to coordinate activities assisted under this part with activities assisted under this Act.

SEC. 11152. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to award a grant to the National Writing Project, a nonprofit educational organization that has as its primary purpose the improvement of the quality of student writing and learning (hereafter in this section referred to as the ‘grantee’) to improve the teaching of writing and the learning of the learning process in our Nation’s classrooms.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as ‘contractors’) under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out such standards.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through 12;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in the selected teacher training programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘Federal share’ means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor receiving assistance under this section.

(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board determines, on the basis of financial need, that such waiver is necessary.

(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $100,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(e) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project determines necessary.

(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

(A) provide advice to the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(f) EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this part. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of Congress.

(2) FUNDING LIMITATION.—The Secretary shall not award a grant for teacher training programs if such grant requests more than $75,000 from the total amount appropriated pursuant to the authority of subsection (h) for fiscal year 2002 and the 6 succeeding fiscal years to carry out the evaluation described in paragraph (1).

(g) APPLICATION REVIEW.—

(1) REVIEW BOARD.—The National Writing Project shall establish a National Review Board that shall consist of—

(A) leaders in the field of research in writing; and

(B) other such individuals as the National Writing Project deems necessary.

(2) DUTIES.—The National Review Board shall—

(A) review all applications for assistance under this subsection; and

(B) recommend applications for assistance under this subsection for funding by the National Writing Project.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated for the grant to the National Writing Project, $15,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, to carry out the provisions of this section.

PART C—READY TO LEARN; READY TO TEACH

Subpart 1—Ready to Learn

SEC. 12001. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This part may be cited as the ‘Ready to Learn, Ready to Teach Act of 2001.’

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

(1) In 1994, Congress and the Department collaborated to make a long-term, meaningful and high-quality investment in preschool education. High-quality preschool television programming will help children be ready to learn by the time they enter first grade.

(2) The Read to Learn (RTL) Television Program through the Public Broadcasting Service (PBS) and local public television stations has proven to be an extremely cost-effective national re- source to improve children’s developmental and cognitive development and helping parents, caregivers, and professional child care providers learn how to use television as a means to help children learn the social and developmental skills of young children.

(3) Independent research shows that parents who participate in Ready to Learn workshops are more selective of the programs that they choose for their children, limit the number of hours of television viewing of their children, and use the television programs as a catalyst for learning.

(4) The Ready to Learn (RTL) Television Program is supporting and creating commercial- free broadcast programs for young children that are of the highest possible educational quality. Although the National Writing Project, PBS and other public television stations, these programs and other programming elements reach tens of millions of children, their parents, and caregivers without regard to their socioeconomic status, location, or access to cable. Public television is a partner with Federal policy to make television an instrument of preschool children’s education and early development.

(5) The Ready to Learn Television Program supports thousands of local workshops organized and run by local public television stations, childcare service providers, Head Start Centers, Even Start family literacy centers and schools. These workshops have trained 630,587 parents and professionals who, in turn, serve and support over 3,172,000 children.

(6) The Ready to Learn Television Program has published and distributed a periodic magazine entitled ‘PBS Families’ that contains developmentally appropriate material to strengthen reading skills and enhance family literacy.

(7) Ready to Learn Television stations also have distributed millions of age-appropriate books in their communities. The program receives a minimum of 300 books each month for free local distribution. Some stations are now distributing more than 500 books per month.

(8) The National Writing Project has shared its materials with public television stations and has proven to be an extremely cost-effective national resource to the Department’s Early Learning efforts.

(9) Demand for Ready to Learn Television Program outreach and training has increased from 10 Public Broadcasting Service stations to 133 stations in 5 years. This growth has put a strain on available resources resulting in an inability to meet the demand for the service and to reach all the children who would benefit from the service.

(10) Federal policy played a crucial role in the evolution of analog television by funding the television program entitled ‘Sesame Street’ in the 1960’s. Federal policy should continue to play a crucial role for children in the digital television age.

SEC. 12102. READY TO LEARN.

(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities described in section 12103 to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

(b) AVAILABLE.—In making such grants, the Secretary shall ensure that eligible entities that receive grants develop and distribute materials as appropriate, to young children, their parents, child care workers, and teachers in all regions of the United States.
Head Start providers to increase the effective use of such programming.

“[sec. 11202. EDUCATIONAL PROGRAMMING.

“(a) AWARDS.—The Secretary shall award grants under section 11202 to eligible entities to—

“(1) facilitate the development directly, or through contracts with producers of children and family educational television programming, of—

“(A) educational programming for preschool and elementary school children; and

“(B) developing and disseminating support materials and services that promote the effective use of such programming;

“(2) facilitate the development of programming with digital content especially designed for nationwide distribution over public television stations’ digital broadcasting channels and the Internet, containing Ready to Learn-based children’s programming and resources for parents and caregivers; and

“(3) enable eligible entities to contract with entities (such as public telecommunications entities) so that programs developed under this section are disseminated and distributed—

(A) to the widest possible audience appropriate to be served by the programming; and

(B) by the most appropriate distribution technologies.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall be—

“(1) a public telecommunications entity that is able to demonstrate a capacity for the development and nationwide distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

“(2) able to demonstrate a capacity to contract with the producers of children’s television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children; and

“(3) able to demonstrate a capacity to localize programming and materials to meet specific State and local needs and provide educational outreach at the local level.

(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of rural and urban cultural and ethnic diversity of the Nation’s children and the needs of both boys and girls in preparing young children for success in school and school.

“[sec. 11204. DUTIES OF SECRETARY.

“The Secretary is authorized—

“(1) to award grants to eligible entities described under paragraph (1)(a), public television stations, or such public television stations that are part of a consortium with 1 or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

(A) addressing the learning needs of young children and their families by means of home-based programs, and developing appropriate educational and television programming to foster the school readiness of such children;

(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs to improve school readiness;

“(2) developing and disseminating education and training materials, including—

(i) innovative programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children’s social and cognitive skill development and positive adult-child relationships; and

(ii) teacher training and professional development to ensure qualified caregivers; and

“(iii) support materials to promote the effective use of materials developed under subparagraph (B) among parents, Head Start providers, in-home and center-based daycare providers, early childhood education, elementary school teachers, public libraries, and after-school program personnel caring for preschool and elementary school children; and

“(D) developing and disseminating educational and instructional technology that are especially designed for and distributed to economically disadvantaged individuals to lever age high-quality television programming;

“(2) to establish within the Department a clearinghouse to compile and provide information, referrals, and model programs and materials and programming obtained or developed under this paragraph to eligible entities, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this subpart; and

“(3) to coordinate activities assisted under this subpart with the Secretary of Health and Human Services in order to—

(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development.

“[sec. 11203. AMENDMENTS TO SUBPART 2—Ready to Teach

“(a) ANNUAL REPORT TO SECRETARY.—An eligible entity receiving funds under section 11202 shall prepare and submit to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require—

“(1) the programming that has been developed for the eligible entity, and the target population of the programs developed;

“(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

“(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

“(4) the initiatives undertaken by the eligible entity to develop public-private partnerships to secure non-Federal support for the development, distribution, and broadcast of educational and instructional programming.

“(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

“(1) a summary of activities assisted under section 11203(a); and

“(2) a description of the training materials made available under section 11204(1)(D), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such information.

“[sec. 11207. ADMINISTRATIVE COSTS.

“With respect to the implementation of section 11203, eligible entities receiving a grant from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant.

“[sec. 11208. DEFINITION.

“‘For the purposes of this subpart, the term ‘distance learning’ means the transmission of educational or instructional programming to physically or geographically dispersed individuals and groups via telecommunications.

“[sec. 11209. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart, $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding full years.

“(b) FUNDING RULE.—Not less than 60 percent of the amounts appropriated under subsection (a) for each fiscal year shall be used to carry out section 11203.

“[Subpart 2.—Ready to Teach

“[sec. 11251. FINDINGS.

“Congress makes the following findings:

“(1) Since 1993, the Telecommunications Demonstration Project for Mathematics (as established under this part pursuant to the Improving America’s Schools Act of 1994) has allowed the Federal Communications Service to pioneer and refine a new model of teacher professional development for kindergarten through grade 12 teachers. Video modeling of standards-based lessons combined with specially developed online learning communities of teachers has been proven to help mathematics teachers adopt and implement standards-based practices. This integrated self-paced approach breaks down the isolation of classroom teaching while making standards-based best practices available to all participants.

“(2) More than 5,800 teachers have participated over the last 3 years in the demonstration. These teachers have taught more than 1,500,000 students cumulatively.

“(3) Independent evaluations indicate that teaching improves and students benefit as a result of the program.

“(4) The demonstration program should be expanded to reach more teachers in more subject areas under the title of Teacherline. The Teacherline Program will bring the digital public broadcasting infrastructure with education networks by working with the program’s digital membership, and Federal and State agencies, to expand and build upon the successful model and take advantage of greatly expanded access to the Internet and technology in schools, including digital television. The Teacherline Program will leverage the Public Broadcasting Service’s historic relationships with education to improve preservice teacher training.

“(5) Over the past several years tremendous progress has been made in writing classrooms, equipping the classrooms with multimedia computers, and connecting the classrooms to the Internet.

“(6) There is a great need for high quality, curriculum-based digital content for teachers and students to easily access and use in order to meet State and local standards for student performance.

“(7) The Congressionally appointed Web-based Education Commission called for the development of high quality public-private online educational content that meets the highest standards of educational excellence.

“(8) Most local public television stations and State educational agencies provide local public television stations with the program’s digital membership, and Federal and State agencies, to expand and build upon the successful model and take advantage of greatly expanded access to the Internet and technology in schools, including digital television. The Teacherline Program will leverage the Public Broadcasting Service’s historic relationships with education to improve preservice teacher training.

“(9) Digital broadcasting can dramatically increase and improve the range of services assisted by public broadcasting stations can offer kindergarten through grade 12 schools.
SEC. 11252. PROJECT AUTHORIZED.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program shall be designed to assist elementary school and secondary school teachers in preparing all students for achieving State and local content standards in core curriculum areas.

(b) PROGRAMMING.—The Secretary is also authorized to award grants to eligible entities described in section 11254(b) to develop, produce, and distribute innovative educational and instructional video programming that is designed for use by kindergarten through grade 12 schools and based on State and local standards. In making the grants, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies and organizations.

SEC. 11253. APPLICATION REQUIRED.

(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under section 11252(a) shall submit an application to the Secretary. Each such application shall—

(1) demonstrate that the applicant will use the public broadcasting infrastructure and distribution services provided, where available, to deliver video and data in an integrated service to train teachers in the use of standards-based curricular materials and learning technologies;

(2) ensure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, national, State or local telecommunications entities, and national education professional associations that have developed content standards in the subject areas;

(3) describe the significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

(4) obtain such additional assurances as the Secretary may reasonably require.

(b) SITES.—In approving applications under section 11252(a), the Secretary shall ensure that the program authorized by section 11252 is conducted at elementary school and secondary school sites across the Nation.

(c) APPLICATION.—Each eligible entity desiring a grant under section 11252(b) shall submit an application to the Secretary at such time, in order to allow time for the creation of a substantial body of significant content.

SEC. 11256. MATCHING REQUIREMENT.

Each eligible entity desiring a grant under section 11252 shall contribute to the activities assisted under section 11252(b) non-Federal matching funds equal to not less than 10 percent of the amount of the grant. Matching funds may include funds for the transition to digital broadcasting, as well as in-kind contributions.

SEC. 11257. ADMINISTRATIVE COSTS.

With respect to the implementation of section 11252, the Secretary may use not more than 5 percent of the amounts received under the grant for the normal and customary expenses of administering the grant.

SEC. 11258. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULES.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart, $45,000,000 for the fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

(b) FUNDING RULE.—For any fiscal year in which appropriations for section 11252 exceed the amount appropriated for such section for the preceding fiscal year, the Secretary shall award the amount of such excess minus at least $500,000 to applicants under section 11252(b).

PART D—EDUCATION FOR DEMOCRACY

SEC. 11301. SHORT TITLE.

This part may be cited as the ‘Education for Democracy Act’.

SEC. 11302. FINDINGS.

Congress finds that—

(1) college freshmen surveyed in 1999 by the Higher Education Research Institute at the University of California at Los Angeles demonstrated higher levels of disengagement, both academically and politically, than any previous entering class of students;

(2) college freshmen in 1999 demonstrated the lowest levels of political interest in the 20-year history of surveys conducted by the Higher Education Research Institute at the University of California at Los Angeles;

(3) United States secondary school students expressed relatively low levels of interest in politics and economics in a 1999 Harris survey;

(4) the 32nd Annual Phi Delta Kappa-Gallup Poll of 2000 indicated that preparing students to become responsible citizens is among the most important purpose of public schools;

(5) Americans surveyed by the Organization for Economic Cooperation and Development indicated that only 59 percent had confidence that schools have a major effect on the development of good citizenship;

(6) Developmentalists often do not have sufficient expertise in the subjects that they teach, and half of all secondary school history students in America are being taught by teachers with neither a major nor a minor in the subject they teach;

(7) secondary school students correctly answered less than half of the questions on a national test of economic knowledge in a 1999 Harris survey;

(8) the 1998 National Assessment of Educational Progress indicated that students have only a superficial knowledge of, and lacked a depth of understanding regarding, civics;

(9) civic and economic education are important not only to developing citizenship competencies in the United States but also to critical to supporting political stability and economic health in other democracies, particularly emerging democratic market economies;

(10) more than three quarters of Americans surveyed by the National Constitution Center in 1997 admitted that they knew only some or very little about the Constitution of the United States.

The Constitution of the United States is too often viewed within the context of history and not as a living document that shapes current events.

SEC. 11303. PURPOSE.

It is the purpose of this part—

(1) to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights;

(2) to foster civic competence and responsibility;

(3) to improve the quality of civic education and economic education through cooperative civic education and economic education exchanges and programs of the United States.

SEC. 11304. GENERAL AUTHORITY.

(a) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts with—

(A) The Center for Civic Education to carry out civic education activities under sections 11306, 11307(a), and 11308;

(B) The National Council on Economic Education to carry out economic education activities under section 11306.

(b) DISTRIBUTION.—The Secretary shall allocate the amount of the grants and contracts under this part in consultation with the Secretary of Education.

(c) DURATION.—Each grant under this part shall be awarded on a competitive basis as determined by the Secretary.

SEC. 11305. WE THE PEOPLE PROGRAM.

(a) THE CITIZEN AND THE CONSTITUTION.—

(1) IN GENERAL.—The Center for Civic Education shall use funds awarded under section 11304(a)(1)(A) to carry out The Citizen and the Constitution program in accordance with this subsection.

(2) EDUCATIONAL ACTIVITIES.—The Citizen and the Constitution program shall—

(A) continue and expand the educational activities of the ‘We the People... The Citizen and the Constitution’ program administered by the Center for Civic Education;

(B) enhance student attainment of challenging content standards in civics and government;

(C) provide a source of instruction on the basic principles of our Nation’s constitutional democracy and the history of the Constitution of the United States and the Bill of Rights;

(D) provide, at the request of a participating school, school and community simulated congressional hearings following the course of study;

(E) provide an annual national competition for simulated congressional hearings for secondary school students who wish to participate in such a program; and

(F) provide—

(i) advanced sustained and ongoing training of teachers about The Constitution of the United States and the political system of the United States created;
of school violence and the abuse of drugs and alcohol.

(3) AVAILABILITY OF PROGRAM.—The education program authorized under this subsection shall be made available to public and private elementary schools and secondary schools, including Bureau funded schools, in the 435 congressional districts in the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) PROJECT CITIZEN.—

(1) IN GENERAL.—The Center for Civic Education, as awarded under section 11304(a)(1) to carry out The Project Citizen program in accordance with this subsection.

(2) EDUCATIONAL ACTIVITIES.—The Project Citizen program—

(A) shall continue and expand the educational activities of the ‘We the People... Project Citizen’ program administered by the Center for Civic Education;

(B) shall enhance student attainment of challenging content standards in civics and government;

(C) shall provide a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution of the United States;

(D) shall provide an annual national showcase or competition; and

(E) shall provide—

(i) optional school and community simulated State legislative hearings;

(ii) advanced sustained and ongoing training of teachers on the roles of State and local government in the Federal system established by the Constitution of the United States;

(iii) materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

(iv) civics education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(3) AVAILABILITY OF PROGRAM.—The education program authorized under this subsection shall be made available to public and private middle schools, including Bureau funded schools, in the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(c) DEFINITION OF BUREAU FUNDED SCHOOL.—In this section, the term ‘Bureau funded school’ has the meaning given the term in section 1146 of the Education Amendments of 1978.

SEC. 11306. COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.

(a) COOPERATIVE CIVIC EDUCATION PROGRAM.—The Secretary of Education and the National Council on Economic Education shall use funds awarded under section 11304(a)(1) to carry out Cooperative Civic Education Exchange programs in accordance with this section.

(b) PURPOSE.—The purpose of the Cooperative Civic Education Exchange programs provided under this section shall be—

(1) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, specific economics education, developed in the United States;

(2) assist eligible countries in the adaptation, implementation, and institutionalization of such programs; and

(3) create and implement civics and government education, and economic education, programs for students that draw upon the experiences of the participating eligible countries;

(4) provide a means for the exchange of ideas and experiences in civics and government education, specific economics education, ethical, educational, governmental, and private sector leaders of participating eligible countries; and

(5) provide support for—

(A) independent research and evaluation to determine the effects of educational programs on students’ development of the knowledge, skills, and traits essential for democracy, and private sector leaders of participating eligible countries; and

(B) effective participation in and the preservation and improvement of an efficient market economy.

(c) AVOIDANCE OF DUPLICATION.—The Secretary shall consult with the Secretary of State to ensure that—

(1) activities under this section are not duplicative of other efforts in the eligible countries; and

(2) partner institutions in the eligible countries are creditable.

(d) ACTIVITIES.—The Cooperative Civic Education Exchange programs shall—

(1) provide eligible countries with—

(A) seminars on the basic principles of the United States constitutional democracy and economic system for educational leaders in eligible countries;

(B) assistant from educators and scholars in eligible countries in the development of curricula materials on the history, government, and economics of the countries that are useful in United States classrooms;

(C) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries;

(D) assistance to educators and scholars in eligible countries in the development of curricular materials on the history, government, and economics of such countries that are useful in United States classrooms; and

(E) independent research and evaluation assistance to determine—

(i) the effects of the Cooperative Education Exchange programs on students’ development of the knowledge, skills, and traits of character essential for the preservation and improvement of an efficient market economy;

(ii) effective participation in and the preservation and improvement of an efficient market economy;

(iii) civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(3) AVAILABILITY OF PROGRAM.—The education program authorized under this subsection shall be made available to public and private middle schools, including Bureau funded schools, in the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) Because gifted and talented students generally are more advanced academically, are able to learn more quickly, and study in more depth and complexity than others their age, their educational needs require opportunities and experiences that are different from those generally available in regular education programs.

(5) Typical elementary school students who are academically gifted and talented already have mastered 35 to 50 percent of the school year’s content in several subject areas before the year begins. Without an advanced and challenging curriculum, they often lack the specialized resources and trained teachers needed to meet their educational needs and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(6) PROJECT CITIZEN.—The primary participants in the Cooperative Education Exchange programs provided under this section shall be educational leaders in the areas of civics and government education, and economic education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, and government and private sector leaders from the United States and eligible countries.

(7) DEFINITION OF ELIGIBLE COUNTRY.—For the purpose of this section, the term ‘eligible country’ means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, the independent states of the former Soviet Union as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801), and the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country, as defined in section 209(a) of the Education for All Handicap Act, that has a democratic form of government as determined by the Secretary in consultation with the Secretary of State.

SEC. 11307. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTION 11304.—There are authorized to be appropriated to carry out section 11304, $15,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2008.

(b) SECTION 11305.—There are authorized to be appropriated to carry out section 11305, $12,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2008.

PART E—GIFTED AND TALENTED CHILDREN

SEC. 11401. SHORT TITLE.

This part may be cited as the ‘Jacob K. Javits Gifted and Talented Students Education Act of 1997.’

SEC. 11402. FINDINGS.

Congress finds the following:

(1) While the families or communities of some gifted students can provide private programs with appropriately trained staff to supplement public educational offerings, most high-ability students, especially those from inner cities, rural communities, or low-income families, must rely on the services and personnel provided by public schools. Therefore, gifted education programs provided by qualified persons in the public schools, are needed to provide equal educational opportunities.

(2) Due to the widespread dispersal of students who are gifted and talented, and the often underserved interest in a well-educated populace, the Federal Government can most effectively and appropriately conduct research and development to provide an infrastructure for, and to ensure that there is, a national capacity to educate students who are gifted and talented to meet the needs of the 21st century.

(3) State and local educational agencies often lack the specialized resources and trained personnel to consistently plan and implement effective programs for the identification of gifted and talented students and to secure the provision of educational services and programs appropriate for their needs.

(4) Because gifted and talented students generally are more advanced academically, are able to learn more quickly, and study in more depth and complexity than others their age, their educational needs require opportunities and experiences that are different from those generally available in regular education programs.

(5) Typical elementary school students who are academically gifted and talented already have mastered 35 to 50 percent of the school year’s content in several subject areas before the year begins. Without an advanced and challenging curriculum, they often lack the specialized resources and trained teachers needed to meet their educational needs.
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“(6) Elementary school and secondary school teachers have students in their classrooms with a wide variety of traits, characteristics, and needs. Most teachers receive some training to meet the needs of these students, such as students with limited English proficiency, students with disabilities, and students from diverse cultural and racial backgrounds. However, most teachers do not have the training to meet the needs of students who are gifted and talented.

SEC. 11403. CONDITIONS ON EFFECTIVENESS OF SUBPART AND PURPOSE

(a) IN GENERAL.—Subpart 2 shall be in effect only for—

(1) the first fiscal year for which the amount appropriated to carry out this part equals or exceeds $50,000,000; and

(2) all succeeding fiscal years.

Subpart 1—National Research Program

SEC. 11412. PURPOSE TO MEET EDUCATIONAL NEEDS OF GIFTED AND TALENTED STUDENTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Subject to section 11403, from the sums available to carry out this part in any fiscal year, the Secretary shall make grants and contracts to State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act) and Native Hawaiian organizations (as such terms are defined in section 205 of the Indian Self-Determination and Education Assistance Act)) to establish, support, and conduct programs to serve gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

(2) APPLICATION.—Each entity desiring assistance under this subpart shall submit an application at such time and in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

(A) programs and services, materials, and methods can be adapted, if appropriate, for use by all students; and

(B) programs can be evaluated.

(b) USES OF FUNDS.—Programs and projects assisted under this subpart may include the following:

(1) Training programs.

(2) Cooperative learning, peer tutoring, and service learning.

(3) Programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, can be adapted, if necessary, to serve gifted and talented students.

(4) Leadership and information on the educational needs of gifted and talented students; and

(5) Programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, can be adapted, if necessary, to serve gifted and talented students.

(6) Programs shall be in effect only for—

(a) the first fiscal year for which the amount appropriated to carry out this part equals or exceeds $50,000,000; and

(b) all succeeding fiscal years.

Subpart 2—Formula Grant Program

SEC. 11421. PURPOSE.

The purpose of this subpart is to provide grants to States to support programs, teacher preparation, and other activities that meet the needs of the Nation’s gifted and talented students in elementary and secondary schools.

SEC. 11422. ESTABLISHMENT OF PROGRAM, USE OF FUNDS.

(a) IN GENERAL.—In the case of each State that in accordance with section 11424 submits to the Secretary an application for a fiscal year, subject to section 11403, the Secretary shall make a grant for the fiscal year to the State for the uses specified in subsection (b). The grant shall be the amount (if any) by which the funds appropriated to carry out this subpart for any fiscal year exceed such funds appropriated for fiscal year 2001.

(b) AUTHORIZED ACTIVITIES.—Each State educational agency desiring a grant under this subpart shall submit an application to the Secretary that contains the assurances described in section 11412, with respect to the implementing activities.

Subpart 2—Formula Grant Program

SEC. 11421. PURPOSE.

The purpose of this subpart is to provide grants to States to support programs, teacher preparation, and other activities that meet the needs of the Nation’s gifted and talented students in elementary and secondary schools.

Subpart 2—Formula Grant Program

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SEC. 11422. ESTABLISHMENT OF PROGRAM, USE OF FUNDS.

SEC. 11422. FORMULA GRANT PROGRAM.

SEC. 11421. PURPOSE.

The purpose of this subpart is to provide grants to States to support programs, teacher preparation, and other activities that meet the needs of the Nation’s gifted and talented students in elementary and secondary schools.

Subpart 2—Formula Grant Program

SEC. 11421. PURPOSE.

The purpose of this subpart is to provide grants to States to support programs, teacher preparation, and other activities that meet the needs of the Nation’s gifted and talented students in elementary and secondary schools.

Subpart 2—Formula Grant Program

SEC. 11421. PURPOSE.

The purpose of this subpart is to provide grants to States to support programs, teacher preparation, and other activities that meet the needs of the Nation’s gifted and talented students in elementary and secondary schools.
making, in accordance with this subpart and on a competitive basis, grants to local educational agencies;

(2) funds received under this subpart shall be used only to supplement, but not supplant, the amount of State and local funds expended for specialized education and related services provided for the education of gifted and talented students;

(3) the State educational agency will provide matching funds for the activities to be assisted under this subpart in an amount equal to not less than 20 percent of the grant funds to be received; and

(4) the State educational agency shall develop and implement program assessment models to ensure program accountability and to evaluate educational effectiveness.

Sec. 11425. DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES.

(1) GRANT COMPETITION.—A State educational agency shall use not more than 2 percent of the grant funds to provide information, education, and support to parents and caregivers of gifted and talented children to enhance their ability to participate in decisions regarding their children’s educational programs. Such education, information, and support shall be developed and carried out by parents and caregivers or by parents and caregivers in partnership with the State.

Sec. 11426. LOCAL APPLICATIONS.

(1) APPLICATION.—To be eligible to receive a grant under this subpart, a local educational agency (including any consortium of local educational agencies) shall submit an application to the State educational agency.

(2) CONTENTS.—Each such application shall include—

(1) an assurance that the funds received under this subpart will be used to identify and support gifted and talented students, including gifted and talented students from all economic, ethnic, and racial backgrounds, such students of limited English proficiency, and such students with disabilities;

(2) a description of how the local educational agency will meet the educational needs of gifted and talented students, including the training of teachers in the education of gifted and talented students; and

(3) an assurance that funds received under this subpart shall be used to supplement, not supplant, the amount of funds the local educational agency expends for the education of, and related services for, gifted and talented students.

Sec. 11427. ANNUAL REPORTING.

Beginning 1 year after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall submit an annual report to the Congress that describes the number of students served and the activities supported with funds provided under this subpart. The report shall include a description of the measures taken to comply with paragraphs (1) and (4) of section 11424(6).

Subpart 3—General Provisions

Sec. 11431. DEFINITIONS

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

Sec. 11432. PARTICIPATION OF PRIVATE SCHOOL STUDENTS

In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

Sec. 11433. DEFINITIONS

For purposes of this subpart:

(1) GIFTED AND TALENTED.—

(2) IN GENERAL.—Except as provided in subparagraph (B), the term ‘gifted and talented’ shall include—

(i) the meaning given the term under applicable State law; or

(ii) in the case of a State that does not have a State law defining the term, the meaning given such term by definition of the State educational agency or local educational agency involved.

(3) SPECIAL RULE.—In the case of a State that does not have a State law that defines the term, and the State educational agency or local educational agency has not defined the term, the term has the meaning given the term in section 2.

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

Sec. 11434. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to carry out this subpart $700,000,000 for each of fiscal years 2002 through 2008.

PART F—LOCAL INNOVATIONS FOR EDUCATION (LIFE) FUND

Subpart 1—Fund for the Improvement of Education

Sec. 11501. FUND FOR THE IMPROVEMENT OF EDUCATION

(1) FUND AUTHORIZED.—From funds appropriated under subpart 9, the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and carry out activities to support and provide remedial and compensatory instruction for academic achievement among all students, especially disadvantaged students traditionally underserved in schools. The Secretary is authorized to carry on such programs and projects directly or through grants to, or contracts with, States and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

(2) USE OF FUNDS.—Funds under this section shall be used for—

(i) joint efforts with other agencies and community organizations, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of educational, recreational, cultural, health and social services programs within a local community;

(ii) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

(iii) activities to promote and evaluate coordinated student support services;

(iv) activities to promote comprehensive health education;

(v) activities to promote environmental education;

(vi) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurship;

(vii) studies and evaluation of various educational reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies; and

(viii) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools.

(2) LIMITATIONS ON USE OF FUNDS.—

(3) COURSE WORK PROVIDED THROUGH EMERGING TECHNOLOGIES.—Activities under sub- section (b)(4) may include development of curricular packages, compensation of distance-learning educators, or other relevant activities, but funds provided under this subpart may not be used for the purchase or upgrading of technological equipment.

(4) STATE USE OF FUNDS.—

(A) IN GENERAL.—A State educational agency or local educational agency shall use funds provided under this subpart for—

(i) disseminating general program information;

(ii) providing technical assistance under this subpart;

(iii) monitoring and evaluation of programs and activities assisted under this subpart;

(iv) providing support for parental education; and

(v) creating a State gifted education advisory board.

(B) ADMINISTRATIVE COSTS.—A State educational agency may use not more than 50 percent of the funds made available to the State educational agency under subparagraph (A) for administrative costs.

(C) EDUCATION, INFORMATION, AND SUPPORT.—A State educational agency receiving a grant under this subpart may use not more than 2 percent of the grant funds to provide information, education, and support to parents and caregivers of gifted and talented children to enhance their ability to participate in decisions regarding their children’s educational programs. Such education, information, and support shall be developed and carried out by parents and caregivers or by parents and caregivers in partnership with the State.

Sec. 11423. ALLOTMENTS TO STATES.

(1) RESERVATION OF FUNDS.—From the amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve 1 percent of the funds made available to the State educational agency under subpart 9 for administrative costs.

(2) STATE ALLOTMENTS.—

(A) IN GENERAL.—To be eligible to receive a grant under this subpart, a State educational agency or local educational agency shall submit an application to the Secretary.

(B) ADMINISTRATIVE COSTS.—A State educational agency has not defined the term, has the meaning given the term in section 2.

(C) E DUCATION, INFORMATION, AND SUPPORT.—A State educational agency receiving a grant under this subpart may use not more than 2 percent of the grant funds to provide information, education, and support to parents and caregivers of gifted and talented children to enhance their ability to participate in decisions regarding their children’s educational programs. Such education, information, and support shall be developed and carried out by parents and caregivers or by parents and caregivers in partnership with the State.

Sec. 11424. STATE APPLICATION.

(1) IN GENERAL.—To be eligible to receive a grant under this subpart, a 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.

(2) CONTENTS.—Each application under this section shall include assurances that—

(i) funds received under this subpart shall be used to support gifted and talented students in public, parochial, and other schools, including students from all economic, ethnic, and racial backgrounds, students of limited English proficiency, students with disabilities, and highly gifted students;

(ii) the funds not retained by the State educational agency shall be used for the purpose of...
gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;“(10) programs designed to encourage parents to participate in school activities;“(11) experiential-based learning, such as service learning;“(12) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;“(13) acquiring connectivity links, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom and school library media centers, in order to improve student learning to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;“(14) providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term plan for implementing educational technologies;“(15) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries;“(16) providing educational services for adults and families;“(17) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations for technology or schools; and“(18) other programs and projects that meet the purposes of this section."

"(c) AWARDS.—"(1) IN GENERAL.—The Secretary may—

(A) make awards under this section on the basis of competitions announced by the Secretary; and

(B) support meritorious unsolicited proposals.

(2) SPECIAL RULE.—The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

(3) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under section 11801 for the cost of such peer review.

SEC. 11502. PROMOTING SCHOLAR-ATHLETE PROGRAMS.

(a) In General.—The Secretary is authorized to award a grant to a nonprofit organization to reimburse such organization for the costs of conducting scholar-athlete games.

(b) Priority.—In awarding the grant under subsection (a), the Secretary shall give priority to a nonprofit organization that—

(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

(2) has the capability and experience in administering federally funded scholar-athlete games;

(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

(4) has the organizational structure and capability to administer a model scholar-athlete program; and

(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States internationally.

"Subpart 2—Star Schools Program"

"SEC. 11551. SHORT TITLE.

This subpart may be cited as the ‘Star Schools Act.’"

"SEC. 11552. FINDINGS.

Congress finds that—

(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multistate regions primarily by means of satellite and broadcast technologies; and

(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction in a foreign language instruction, that the local educational agency is not otherwise able to provide; and

(3) distance learning programs may also be used to—

(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

(B) expand professional development opportunities for teachers;

(C) contribute to achievement of the National Education Goals; and

(D) expand learning opportunities for everyone.

"SEC. 11553. PURPOSE.

It is the purpose of this subpart to encourage improved use of educational science, mathematics, and foreign languages as well as other subjects, such as literacy skills and educational, and to serve underserved populations, including the disadvantaged, limited proficient, and individuals with disabilities, through a Star Schools program under which grants are made to eligible telecommunication partnerships for the purpose of—

(1) develop, construct, acquire, maintain, and operate telecommunications audio and visual facilities and equipment; and

(2) develop processes and procedures for educational and instructional programming; and

(3) obtain technical assistance for the use of such facilities and instructional programming.

"SEC. 11554. GRANTS AUTHORIZED.

(a) AUTHORITY.—The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this subpart, to eligible entities to pay the Federal share of the cost of—

(1) the development, construction, acquisition, maintenance, and operation of telecommunications facilities and equipment; (2) the development and acquisition of live, interactive instructional programming; (3) the development, acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction; and (4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers; (5) obtaining technical assistance; and (6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

(b) DURATION.—

(1) IN GENERAL.—The Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

(2) RENEWAL.—Grants awarded pursuant to subsection (a) may be renewed for 1 additional 3-year period.

"(c) AVAILABILITY OF FUNDS.—Funds made available to carry out this subpart shall remain available until expended.

"(d) LIMITATIONS.—

(1) IN GENERAL.—A grant under this section shall not exceed—

(A) 5 years in duration; or

(B) $20,000,000 per fiscal year.

(2) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this subpart shall be used for the cost of instructional programming.

(3) SPECIAL RULE.—Not less than 50 percent of the funds available in any fiscal year under this subpart shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies eligible to receive assistance under part A of title I.

(4) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of projects funded under this section shall not exceed—

(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this subpart;

(B) 60 percent for the third and fourth such years; and

(C) 50 percent for the fifth such year.

(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive the requirement of the non-Federal share under paragraph (1) upon a showing of financial hardship.

(3) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this subpart with the activities of such department or agency relating to a telecommunications network for educational purposes.

"(e) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—Each entity receiving funds under this subpart is encouraged to provide—

(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

(2) descriptive video of the content of such program, as appropriate.

"SEC. 11555. ELIGIBLE ENTITIES.

(a) ELIGIBLE ENTITIES.—

(1) REQUIRED PARTICIPATION.—The Secretary may make a grant under section 11554 to any eligible entity, if at least 1 local educational agency is participating in the proposed project.

(2) ELIGIBLE ENTITY.—In the case of this subpart, the term ‘eligible entity’ may include—

(A) a public agency or corporation established for the purpose of providing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary schools and secondary schools that are eligible to participate in the program under part A of title I; or

(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

(i) a local educational agency that serves a significant number of elementary schools and secondary schools that are eligible for assistance under part A of title I, or elementary schools and secondary schools operated or funded for Indian children by the Department of the Interior under section 1212(c)(1)(A); (ii) a State educational agency; (iii) adult and family education programs; (iv) an institution of higher education or a State education agency; (v) a teacher training center or academy that—
“(I) provides teacher preservice and inservice training; and
“(II) receives Federal financial assistance or has been approved by a State agency;
“(III) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or
“(IV) a public or private secondary school.

(b) SPECIAL RULE.—An eligible entity receiving assistance under this subpart shall be organized on a statewide or multistate basis.

SEC. 11556. APPLICATIONS.

(a) APPLICATIONS REQUIRED.—Each eligible entity which desires to receive a grant under section 11554 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) STAR SCHOOL AWARD APPLICATION.—Each application submitted pursuant to subsection (a) shall—
“(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational agencies in reform efforts, and how such project will contribute to creating a high-quality system of lifelong learning;
“(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—
“(A) the design, development, construction, acquisition, maintenance, and operation of State or multistate public telecommunications networks and technology resource centers;
“(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;
“(C) reception facilities;
“(D) satellite time;
“(E) production facilities;
“(F) other telecommunications equipment capable of serving a wide geographic area;
“(G) training programs for in-service teachers and instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment in integrating programs into the classroom curriculum; and
“(H) the development of educational and related programming for use on a telecommunications network;
“(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance, improve, and train and provide assurance that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;
“(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered will be of substantial academic and teaching significance; and
“(5) describe the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought.

(c) PRIORITIES.—The Secretary, in approving applications for grants authorized under section 11554, shall give priority to applications describing projects that—
“(1) propose high-quality plans to assist in achieving 1 or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform; or
“(2) will provide services to programs serving adults, especially parents, with low levels of literacy;
“(3) will serve schools with significant numbers of children counted for the purposes of part A of title I;
“(4) ensure that the eligible entity will—
“(A) serve the broadest range of institutions, programs providing instruction outside of the classroom (including distance learning, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, and private industry;
“(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;
“(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;
“(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;
“(E) provide instruction for students, teachers, and parents;
“(F) serve a multisite area; and
“(G) give priority to the provision of equipment and linkages to isolated areas; and
“(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity’s telecommunications equipment or in-kind services for telecommunications linkages.

(d) GEOGRAPHIC DISTRIBUTION.—In approving applications for grants authorized under section 11554, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this subpart.

SEC. 11557. LEADERSHIP AND EVALUATION.

(a) RESERVATION.—From the amount made available to carry out this subpart in each fiscal year, there shall be reserved—
“(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) (9) shall be used for—
“(A) disseminating information, including lists and descriptions of services available from grant recipients under this subpart; and
“(B) other activities designed to enhance the quality of distance learning activities nationwide;
“(2) EVALUATION.—Funds reserved for evaluation activities under subsection (a) may be used to conduct independent evaluations of the activities assisted under this subpart and of distance learning in general, including—
“(A) analyses of distance learning efforts, including such efforts that are assisted under this subpart and such efforts that are not assisted under this subpart; and
“(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

(b) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—
“(1) applications for grants under this subpart; and
“(2) activities assisted under this subpart.
"SEC. 11558. DEFINITIONS. —
"(1) EDUCATIONAL INSTITUTION.—The term "educational institution" means an institution of higher education, a local educational agency, or a State educational agency.

"(2) INSTRUCTIONAL PROGRAMMING.—The term "instructional programming" means courses of instruction offered for elementary and secondary students, teachers, and others, and materials for in such instruction and training that have been prepared in audio and visual materials on tape, disc, film, or like, and presented by means of telecommunications devices.

"(3) PUBLIC BROADCASTING ENTITY.—The term "public broadcasting entity" has the same meaning given such term in section 397 of the Communications Act of 1934.

"SEC. 11559. ADMINISTRATIVE PROVISIONS. —
"(a) CONTINUING ELIGIBILITY.—
"(1) IN GENERAL.—In order to be eligible to receive a grant under section 11554 for a second 3-year grant period an eligible entity shall demonstrate under an application submitted pursuant to section 11556 that such partnership shall—
(A) provide instruction in the subjects and geographic areas assisted with funds received under this subpart for the previous 3-year grant period; and
(B) use all grant funds received under this subpart for the second 3-year grant period to provide instruction—
(i) increasing the number of students, schools, or school districts served by the courses of instruction assisted under this paragraph,
(c) show the greatest potential for replication and dissemination.

(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure that funds are distributed geographically among the regions of the United States and among urban, suburban, and rural areas.

(4) DISBURSEMENT.—A grant under this section shall be awarded for a period not to exceed three years.

(5) MAXIMUM GRANT.—A grant under this section shall not exceed $400,000 for any fiscal year.

(b) APPLICATIONS.—

(1) IN GENERAL.—Each local 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 reasonably require.

(2) CONTENTS.—Each application for a grant under this section shall—

(A) describe the school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

(B) describe the activities, services, and training to be provided by the program and the specific ways in which such activities and services will meet the needs described in subparagraph (A);

(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs leading to the preparation of school counselors, school psychologists, and school social workers;

(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

(G) describe how any diverse cultural populations eligible for the program will be served by the program;

(H) assure that the funds made available under this subpart for any fiscal year will be used to the extent practicable to meet the needs described in subparagraph (A); and

(I) assure that the funds made available under this subpart for any fiscal year will be used to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in such case sufficient such funds from non-Federal sources; and

(J) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

(c) USE OF FUNDS.—

(1) IN GENERAL.—From amounts made available under this section, the Secretary shall award grants to local educational agencies to be used to initiate or expand elementary or secondary school counseling programs that comply with the requirements of paragraph (2).

(2) PROGRAM REQUIREMENTS.—Each program assisted under this section shall—

(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

(B) use a developmental, preventive approach to counseling; and

(C) increase the range, availability, quantity, and quality of counseling services in the schools of the local educational agency.

(D) provide counseling services only through qualified school counselors, school psychologists, and school social workers;

(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, or academic and career planning, or to improve social and emotional functioning.

(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with teachers, administrators, and other pupil services personnel;

(G) include in-service training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration;

(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

(3) REPORT.—The Secretary shall issue a report containing a list of grants assisted pursuant to this section to each grantee under this subpart at the end of each fiscal year.

(4) DISSEMINATION.—The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

(5) LIMIT ON ADMINISTRATION.—Not more than 5 percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

(d) DEFINITIONS.—For purposes of this section:

(1) SCHOOL COUNSELOR.—The term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

(A) possesses State licensure or certification granted by an independent professional regulatory authority;

(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent.

(2) SCHOOL PSYCHOLOGIST.—The term 'school psychologist' means an individual who—

(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

(B) possesses State licensure or certification in the State in which the individual works; or

(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board.

(3) SCHOOL SOCIAL WORKER.—The term 'school social worker' means an individual who—

(A) holds a master's degree in social work from a program accredited by the Council on Social Work Education; and

(ii) is licensed or certified by the State in which services are provided; or

(B) in the absence of such licensure or certification, possesses a national certification or credential as a school social work specialist that has been awarded by an independent professional organization.

(4) SUPERVISOR.—The term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual's employment.

SEC. 11602. SPECIAL RULE.

For any fiscal year in which the amount made available to carry out this subpart is less than $60,000,000, the least amount shall be made available in such fiscal year to establish or expand elementary school counseling programs.

Subpart 3—Partnerships In Character Education

SEC. 11651. SHORT TITLE.

This subpart may be cited as the 'Strong Character for Strong Schools Act'.

SEC. 11652. PARTNERSHIPS IN CHARACTER EDUCATION PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants to eligible entities for the design and implementation of character education programs that may incorporate the elements of character described in subsection (d).

(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

(A) a State educational agency in partnership with 1 or more local educational agencies; or

(B) a State educational agency in partnership with—

(i) one or more local educational agencies; and

(ii) one or more nonprofit organizations or entities, including institutions of higher education;

(C) a local educational agency or consortium of local educational agencies; or

(D) a local educational agency in partnership with another nonprofit organization or entity, including institutions of higher education.

(3) DURATION.—Each grant under this section shall be awarded for a period not to exceed 3 years, of which the eligible entity shall not use more than 1 year for planning and program design.

(4) AMOUNT OF GRANTS FOR STATE EDUCATIONAL AGENCIES.—Subject to the availability of appropriations, the amount of grant made by the Secretary to a State educational agency in a partnership described in subparagraph (A) or (B) of paragraph (2), that submits an application under subsection (b) and that meets such requirements as the Secretary may establish under this section, shall not be less than $50,000.

(b) APPLICATIONS.—

(1) REQUIREMENT.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) CONTENTS OF APPLICATION.—Each application submitted under this section shall include—

(A) a description of any partnerships or collaborative efforts among the organizations and entities of the eligible entity;

(B) a description of the goals and objectives of the program proposed by the eligible entity;

(C) a description of activities that will be pursued and how those activities will contribute to meeting the goals and objectives described in subparagraph (B), including—

(i) how parents, students (including students with physical and mental disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program;

(ii) in-service training and instructional practices that will be used or developed;

(iii) methods of teacher training and parent education that will be used or developed; and

(iv) any other support necessary to achieve the objectives of the program;

(D) a description of the ways in which the program will be linked to other efforts in the schools to improve student performance;
“(D) in the case of an eligible entity that is a State educational agency—

“(i) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs; and

“(ii) a description of how the State educational agency will assist other interested local educational agencies that are members of the original partnership in designing and establishing such programs;

“(E) a description of how the eligible entity will evaluate the success of its program—

“(i) based on the goals and objectives described in paragraph (B); and

“(ii) in cooperation with the national evaluation conducted pursuant to subsection (c)(2)(B)(iii).

“(F) an assurance that the eligible entity annually will provide to the Secretary such information as may be required to determine the effectiveness of the program; and

“(G) any other information that the Secretary may require.

(c) Evaluation and Program Development

“(1) Evaluation and Reporting.—

“(A) State and Local Reporting and Evaluation.—Each eligible entity receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this section, including the impact on students (including students with physical and mental disabilities), teachers, administrators, parents, and others—

“(i) the by the second year of the program; and

“(ii) not later than 1 year after completion of the grant period.

“(B) Contracts for Evaluation.—Each eligible entity receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating its program and measuring the success of the program toward fostering character in students.

“(2) National Research, Dissemination, and Evaluation

“(A) in General.—The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, tribal organizations, or other public or private agencies or organizations to carry out research, development, dissemination, technical assistance, and evaluation activities that support or inform State and local character education programs. The Secretary shall reserve not more than five percent of the funds made available under this section for evaluation activities pursuant to this paragraph.

“(B) Use of Funds.—Funds made available under paragraph (A) may be used—

“(i) to conduct research and development activities that focus on matters such as—

“(I) the effectiveness of instructional models for all students, including students with physical and mental disabilities;

“(II) materials and curricula that can be used by programs in character education;

“(III) models of professional development in character education; and

“(IV) the development of measures of effectiveness for character education programs which may include the factors described in paragraph (3);

“(ii) to provide technical assistance to State and local programs, particularly on matters of program evaluation;

“(iii) to conduct a national evaluation of State and local programs receiving funding under this section; and

“(iv) to compile and disseminate, through various approaches such as a national clearinghouse—

“(I) information on model character education programs;

“(II) character education materials and curricula;

“(III) research findings in the area of character education and character development; and

“(IV) any other information that will be useful to character education program participants, educators, parents, administrators, and others nationwide.

“(C) Priority.—In carrying out national activities under this paragraph related to development, dissemination, and technical assistance, the Secretary shall seek to enter into partnerships with national, nonprofit character education organizations with expertise and successful experience in implementing local character education programs that have had an effective impact on schools, students (including students with disabilities), and teachers.

“(D) the quality of the plan for measuring the success of programs funded under this section may include—

“(I) student achievement;

“(II) participation in extracurricular activities;

“(III) parental and community involvement;

“(IV) evaluation of professional development.

“(E) the likelihood that the goals of the program will be realistically achieved.

“(2) Diversity of Projects.—The Secretary shall assure applications under this section in a manner that includes, to the extent practicable, that programs assisted under this section—

“(A) serve different areas of the Nation, including urban, suburban, and rural areas;

“(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, disadvantaged students, and students with disabilities;

“(C) promote gender equity; and

“(D) are derived from projects in which—

“(i) the development and implementation of character education programs; and

“(ii) the preparation or purchase of materials, resources, analyses, and research relevant to the purposes of character education to be conducted.

“(3) to promote gender equity in education in the United States—

“(A) efforts to improve the quality of public education also must include efforts to promote gender equitable practices;

“(B) Federal assistance for gender equity must be tied to systematic reform, involve collaborative efforts to implement reforms at the local level, and encourage parental participation; and

“(C) excellence in education, high educational achievement, and standards of education shall be achieved in a manner that ensures that the participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

“(4) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

“(5) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, and disability.

“SEC. 11703. PROGRAMS AUTHORIZED

“(a) in General.—The Secretary is authorized to—

“(1) promote, coordinate, and evaluate gender equity policies, programs, activities, and initiatives in all Federal education programs and activities;

“(2) to develop, maintain, and disseminate materials, resources, analyses, and research related to gender equity policies, programs, and activities; and

“(3) to provide technical and financial assistance to assure the effective implementation of gender equity programs;
SEC. 11705. CRITERIA AND PRIORITIES.

(a) CRITERIA AND PRIORITIES.—

(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for grants under paragraphs (1) and (2) of section 11703(b) to ensure that funds under this subpart are used for programs that most effectively will achieve the purposes of this subpart.

(2) CRITERIA.—The criteria described in subsection (a) may include the extent to which the activities assisted under this part address the needs of women and girls of color and women and girls with disabilities;

(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated.

(3) Other criteria which are jointly funded and carried out with the Office of Educational Research and Improvement.

(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

(3) LIMITATION.—Nothing in this subpart shall be construed as prohibiting men and boys from participating in any programs or activities assisted under funds under this subpart.

SEC. 11706. REPORT.

The Secretary, not later than January 1, 2001, shall submit to the President and Congress a report on the status of educational equity for girls and women in the Nation.

SEC. 11707. ADMINISTRATION.

SEC. 11709. EVALUATION AND DISSEMINATION.—The Secretary shall evaluate and disseminate materials and programs developed under this subpart.
"SEC. 11760. ADMINISTRATIVE COSTS.

"(a) Federal Share—The Federal share under this subpart shall not exceed—

(1) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subpart for the fiscal year may be used for administrative costs.

"(b) SUPPLEMENT NOT SUPPLANT.—Funds available under this subpart shall be used to supplement and not supplant other Federal, State and local funds available for physical education activities.

"SEC. 11762. AVAILABILITY OF AMOUNTS.

"Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

Subpart—Smaller Learning Communities

"SEC. 11761. SMALLER LEARNING COMMUNITIES.

("a) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as may be prescribed by such regulation as the Secretary may require. Each such application shall describe—

(1) strategies and methods the applicant will use to create the smaller learning community or communities;

(2) curriculum and instructional practices, including any particular thematic or emphases, to be used in the learning environment;

(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will assist all students to reach challenging State content standards and State student performance standards;

(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agencies will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this Act or other Federal laws;

(12) grade levels of one or more constituents so that students are not placed according to ability, performance or any other measure, so
that students are placed at random or by their own choice, not pursuant to testing or other judgments.

(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used by—

"(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities; and

"(2) to research, develop and implement strategies for creating the smaller learning community or communities as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

"(D) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

"Subpart 9—Authorization of Appropriations

SEC. 11001. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 6 succeeding fiscal years."

TITLE XVIII—JOHN H. CHAFEE ENVIRONMENTAL EDUCATION ACT

SEC. 1701. SHORT TITLE.

(a) This title may be cited as the "John H. Chafee Environmental Education Act of 2001".

(b) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Section 1(a) of the National Environmental Education Act (20 U.S.C. 5501) is amended by striking "National Environmental Education Act" and inserting "John H. Chafee Environmental Education Act".

SEC. 1702. OFFICE OF ENVIRONMENTAL EDUCATION.

Section 4 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting "objective and scientifically sound" after "support"; and

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7) through (12) as paragraphs (6) through (12), respectively; and

(D) in paragraph (12) (as so redesignated), by inserting before the period at the end the following: "...through the headquarters and the regional offices of the Agency"; and

(2) by striking subsection (c) and inserting the following:

"(c) STAFF.—The Office of Environmental Education shall—

"(1) include a headquarters staff of not more than 10 full-time equivalent employees; and

"(2) be staffed by full-time equivalent employee in each regional office of the Agency.

"(d) ACTIVITIES.—The Administrator may carry out the activities described in subsection (b) without regard to grants, cooperative agreements, or contracts.".

SEC. 1703. ENVIRONMENTAL EDUCATION GRANTS.

Section 6 of the John H. Chafee Environmental Education Act (20 U.S.C. 5505) is amended—

(1) in the second sentence of subsection (i), by striking "25 percent" and inserting "15 percent"; and

(2) by adding at the end the following:

"(j) LOBBYING ACTIVITIES.—A grant under this section may not be used to support a lobbying activity (as described in the documents issued by the Office of Management and Budget and designated as OMB Circulars No. A-21 and No. A-122).

SEC. 1704. JOHN H. CHAFEES MEMORIAL FELLOWSHIP PROGRAM.

(a) In General.—Section 7 of the John H. Chafee Environmental Education Act (20 U.S.C. 5506) is amended by striking the words "as a result of" and inserting "for the purpose of"

"(b) PURPOSE.—The purpose of the John H. Chafee Memorial Fellowship Program is to stimulate innovative graduate level study and the development of complex, relevant, and important environmental issues and effective approaches to addressing those issues through organized programs of guided independent study and research.

"(c) AWARD.—Each John H. Chafee Fellowship shall—

"(1) be made available to individual candidates through a sponsoring institution and in accordance with an annual competitive selection process established under subsection (f)(3); and

"(2) be in the amount of $25,000.

"(d) FOCUS.—Each John H. Chafee Fellowship shall focus on an environmental, natural resource, or public policy issue that a sponsoring institution determines to be appropriate.

"(e) SPONSORING INSTITUTIONS.—The John H. Chafee Fellowships may be applied for through any sponsoring institution.

"(f) PANEL.—

"(1) IN GENERAL.—The National Environmental Education Advisory Council established by section 8(a) shall administer the John H. Chafee Fellowship Program.

"(2) MEMBERS.—The Panel shall consist of 5 members, appointed by a majority vote of members of the National Environmental Education Advisory Council, of whom—

"(A) 2 members shall be professional educators in higher education; and

"(B) 2 members shall be environmental scientists; and

"(C) 1 member shall be a public environmental policy analyst.

"(3) DUTIES.—The Panel shall—

"(A) establish criteria for a competitive selection process for recipients of John H. Chafee Fellowships; and

"(B) receive applications for John H. Chafee Fellowships; and

"(C) annually review applications and select recipients of John H. Chafee Fellowships.

"(g) DISTRIBUTION.—The amount of each John H. Chafee Fellowship shall be provided directly to each recipient selected by the Panel upon receipt of a certification from the recipient that the recipient will adhere to a specific and detailed plan of study and research.

"(h) FUNDING.—From amounts made available under section 13(b)(1)(C) for each fiscal year, the Office of Environmental Education shall make available—

"(1) $25,000 for John H. Chafee Memorial Fellowships; and

"(2) $12,500 to pay administrative expenses incurred in carrying out the John H. Chafee Memorial Fellowship Program.

SEC. 7. JOHN H. CHAFEES MEMORIAL FELLOWSHIP PROGRAM.

(a) In General.—Section 7 of the John H. Chafee Environmental Education Act (20 U.S.C. 5506) is amended by striking the words "as a result of" and inserting "for the purpose of"

"(b) PURPOSE.—The purpose of the John H. Chafee Memorial Fellowship Program is to stimulate innovative graduate level study and the development of complex, relevant, and important environmental issues and effective approaches to addressing those issues through organized programs of guided independent study and research.

"(c) AWARD.—Each John H. Chafee Fellowship shall—

"(1) be made available to individual candidates through a sponsoring institution and in accordance with an annual competitive selection process established under subsection (f)(3); and

"(2) be in the amount of $25,000.

"(d) FOCUS.—Each John H. Chafee Fellowship shall focus on an environmental, natural resource, or public policy issue that a sponsoring institution determines to be appropriate.

"(e) SPONSORING INSTITUTIONS.—The John H. Chafee Fellowships may be applied for through any sponsoring institution.

"(f) PANEL.—

"(1) IN GENERAL.—The National Environmental Education Advisory Council established by section 8(a) shall administer the John H. Chafee Fellowship Program.

"(2) MEMBERS.—The Panel shall consist of 5 members, appointed by a majority vote of members of the National Environmental Education Advisory Council, of whom—

"(A) 2 members shall be professional educators in higher education; and

"(B) 2 members shall be environmental scientists; and

"(C) 1 member shall be a public environmental policy analyst.

"(3) DUTIES.—The Panel shall—

"(A) establish criteria for a competitive selection process for recipients of John H. Chafee Fellowships; and

"(B) receive applications for John H. Chafee Fellowships; and

"(C) annually review applications and select recipients of John H. Chafee Fellowships.

"(g) DISTRIBUTION.—The amount of each John H. Chafee Fellowship shall be provided directly to each recipient selected by the Panel upon receipt of a certification from the recipient that the recipient will adhere to a specific and detailed plan of study and research.

"(h) FUNDING.—From amounts made available under section 13(b)(1)(C) for each fiscal year, the Office of Environmental Education shall make available—

"(1) $25,000 for John H. Chafee Memorial Fellowships; and

"(2) $12,500 to pay administrative expenses incurred in carrying out the John H. Chafee Memorial Fellowship Program.

SEC. 1705. NATIONAL ENVIRONMENTAL EDUCATION AWARDS.

(a) In General.—Section 8 of the John H. Chafee Environmental Education Act (20 U.S.C. 5507) is amended to read as follows:

"SEC. 8. NATIONAL ENVIRONMENTAL EDUCATION AWARDS.

"(a) PRESIDENTS ENVIRONMENTAL YOUTH AWARDS.—The Administrator may establish a program for the granting and administration of awards, to be known as "President's Environmental Youth Awards", to young people in grades kindergarten through 12 to recognize outstanding projects to promote local environmental awareness.

"(b) TEACHERS AWARDS.—

"(1) IN GENERAL.—The Chair of the Council on Environmental Quality, on behalf of the President, may establish a program for the granting and administration of awards to recognize teachers in elementary schools and secondary schools who demonstrate excellence in advancing objective and scientifically sound environmental education through innovative approaches and strategies.

"(2) ELIGIBILITY.—One teacher, and the local education agency employing the teacher, from each State, the District of Columbia, and the Commonwealth of Puerto Rico, shall be eligible to be selected for an award under this subsection.

"(3) AUTHORIZATION.—The Chairman is authorized to provide a cash award of up to $2,500 to any teacher selected to administer an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education. The Chairman is also authorized to provide a cash award of up to $2,500 to the local educational agency employing any teacher selected to receive an award pursuant to this section, which shall be used by the fund for environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

"(4) ADMINISTRATION.—The Chair of the Council on Environmental Quality may administer this awards program through a cooperative agreement with the National Environmental Learning Foundation.

"(b) DEFINITIONS.—Section 8 of the John H. Chafee Environmental Education Act (20 U.S.C. 5507) is amended by—

"(1) in paragraph (12), by striking "and" at the end of the paragraph; and

"(2) by adding at the end the following:

"(16) 'elementary school' has the meaning given in the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

"(17) 'secondary school' has the meaning given in the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)."

"(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. 5501) is amended by striking the item relating to section 7 and inserting the following:

"SEC. 7. John H. Chafee Memorial Fellowship Program."
Section 9 of the John H. Chafee Environmental Education Act (20 U.S.C. 5508) is amended—

(1) in subsection (b)(2)—

(A) by striking “(2) The” and all that follows through the end of the second sentence and inserting the following—

“(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall consist of not more than 11 members appointed by the Administrator after consultation with the Secretaries of—

(i) elementary schools and secondary schools;

(ii) colleges and universities;

(iii) not-for-profit organizations involved in environmental education;

(iv) State departments of education and natural resources; and

(v) business and industry;”;

(B) in the third sentence, by striking “A representative” and inserting the following:

“(C) REPRESENTATIVE OF THE SECRETARY.—A representative”; and

(C) in the last sentence, by striking “The conflict” and inserting the following:

“(D) CONFLICTS OF INTEREST.—The conflict”; and

(2) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) MEMBERSHIP.—Membership on the Task Force shall be open to representatives of any Federal agency actively engaged in environmental education;

(3) in subsection (d), by striking “(d)(1)” and all that follows through “(2) The” and inserting the following—

“(1) IN GENERAL.—There is established a grant program to be known as the ‘Theodore Roosevelt Environmental Stewardship Grant Program’ (referred to in this Act as the ‘Program’) for the award and administration of grants to consortia of institutions of higher education to pay the Federal share of the cost of carrying out collaborative student, campus, and community-based environmental stewardship activities.

(2) FEDERAL SHARE.—The Federal share shall be seventy-five percent.

(3) PURPOSE.—The purpose of the Program is to build awareness of, encourage commitment to, and promote participation in environmental stewardship—

(A) among students at institutions of higher education; and

(B) in the relationship between—

(A) such students and the campus; and

(B) the communities in which the students and campuses are located.

(4) CRITERIA.—Grants under the Program shall be made available to consortia of institutions of higher education in accordance with an annual competitive selection process established under subsection (d)(2)(A).

(5) DUTIES.—The Office of Environmental Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program;

(B) receive applications for grants under the Program; and

(C) annually review applications and select recipients of grants under the Program.

(6) AWARD.—Grants under the Program shall be made available to consortia of institutions of higher education in accordance with an annual competitive selection process established under subsection (d)(2)(A).

SEC. 1709. INFORMATION STANDARDS.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act (20 U.S.C. 5500) is amended by striking section 10 and inserting the following:

“Sec. 10. National Environmental Learning Foundation.—

(1) generally facilitate environmental stewardship activities, including environmental protection, preservation, or improvement activities; and

(2) stimulate the availability of other funds for those activities.

(3) in subsection (d) (as redesignated by paragraph (1))—

(4) CONDITIONS ON USE OF FUNDS.—With respect to the funds made available to carry out this section under subsection (a)(1)—

(1) no less than 6 grants each year shall be awarded using those funds shall be in an amount that exceeds $500,000.”.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (c), by striking the section heading and inserting the following:

“(c) MEETINGS AND REPORTS.—

(1) IN GENERAL.—There is established an advisory council to be known as the ‘Environmental Learning Council’ (referred to in this Act as the “Council”) for the purpose of advising the Secretary on the operation of the environmental education programs under this Act.

(2) DUTIES.—The Office of Environmental Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program; and

(B) receive applications for grants under the Program; and

(C) annually review applications and select recipients of grants under the Program.

(3) CRITERIA.—In establishing criteria for a competitive selection process for recipients of grants under the Program, the Office of Environmental Education shall, at a minimum, as criteria, the extent to which a grant will—

(A) directly facilitate environmental stewardship activities, including environmental protection, preservation, or improvement activities; and

(B) stimulate the availability of other funds for those activities.

(4) CONDITIONS ON USE OF FUNDS.—With respect to the funds made available to carry out this section under subsection (a)(1)—

(1) no less than 6 grants each year shall be awarded using those funds shall be in an amount that exceeds $500,000.”.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 1705(b)) is amended by adding at the end the following:

“(18) ‘consortium of institutions of higher education’ means an arrangement among 2 or more institutions of higher education; and

(19) ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

SEC. 1708. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act (20 U.S.C. 5500) is amended in section 11 by redesignating subsection (b) as subsection (c) and inserting the following:

“(c) AWARD.—Grants under the Program shall be made available to consortia of institutions of higher education in accordance with an annual competitive selection process established under subsection (d).”.

(b) DUTIES.—The Office of Environmental Education shall—

(A) directly facilitate environmental stewardship activities, including environmental protection, preservation, or improvement activities; and

(B) stimulate the availability of other funds for those activities.

(3) AKNOWLEDGMENT OF DONORS.—The Secretary of Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program.

(B) receive applications for grants under the Program.

(C) annually review applications and select recipients of grants under the Program.

(D) establish criteria for a competitive selection process for recipients of grants under the Program.

(E) receive applications for grants under the Program.

(F) annually review applications and select recipients of grants under the Program.

(2) IN GENERAL.—The Office of Environmental Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program.

(B) receive applications for grants under the Program.

(C) annually review applications and select recipients of grants under the Program.

(D) establish criteria for a competitive selection process for recipients of grants under the Program.

(E) receive applications for grants under the Program.

(F) annually review applications and select recipients of grants under the Program.

(2) IN GENERAL.—The Office of Environmental Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program.

(B) receive applications for grants under the Program.

(C) annually review applications and select recipients of grants under the Program.

(D) establish criteria for a competitive selection process for recipients of grants under the Program.

(E) receive applications for grants under the Program.

(F) annually review applications and select recipients of grants under the Program.

(2) IN GENERAL.—The Office of Environmental Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program.

(B) receive applications for grants under the Program.

(C) annually review applications and select recipients of grants under the Program.

(D) establish criteria for a competitive selection process for recipients of grants under the Program.

(E) receive applications for grants under the Program.

(F) annually review applications and select recipients of grants under the Program.

(2) IN GENERAL.—The Office of Environmental Education shall—

(A) establish criteria for a competitive selection process for recipients of grants under the Program.

(B) receive applications for grants under the Program.

(C) annually review applications and select recipients of grants under the Program.

(D) establish criteria for a competitive selection process for recipients of grants under the Program.

(E) receive applications for grants under the Program.

(F) annually review applications and select recipients of grants under the Program.
ADJOURNMENT UNTIL 2 P.M., MONDAY, JUNE 25, 2001

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:05 p.m., adjourned until Monday, June 25, 2001, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 2001:

PETER R. CHAIKES, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF KUWAIT.

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

THE JUDICIARY

RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE NINTH CIRCUIT, VIC CYNTHIA HOLCOMB HALL, RETIRED.

CAROLYN B. KUHL, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NINTH CIRCUIT, VIC JAMES R. BROWNING, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMED SERVICES FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 612 AND 531:

To be lieutenant colonel

DAVID L ABBOTT, 0000
JAMES W ADAMS, 0000
ELIZABETH R AGATHER, 0000
ALFONSO J AHUJA, 0000
KIRK Y ALLEN, 0000
MICHAEL J ALLEN, 0000
REGINALD E ALLISON, 0000
PAUL JAMES AMBROSE, 0000
FRANZ J AMBERGER, 0000
CURTIS A ANDERSON JR., 0000
DON D ANDREWS, 0000
PATRICK M ANTONIETTI, 0000
ARTHUR J ARAGON JR., 0000
DAVID A ARNFELDT, 0000
MARK R ARN, 0000
HORIA, ARNOLD III, 0000
JOHN K ARNOLD IV, 0000
JOHN C ASHBROOK, 0000
REGGIE L AUSTIN, 0000
CALVIN D BAILEY, 0000
CHRISTOPHER J BAILEY, 0000
DAVID CARE, 0000
MICHAEL ARMSTEAD, 0000
MARK R ARN, 0000
ERIN, ARNOLD III, 0000
JOHN C ARNOLD IV, 0000
JOHN C ASHBROOK, 0000
REGGIE L AUSTIN, 0000
CALVIN D BAILEY, 0000
MARK R ARN, 0000
*CASEY R BAIN, 0000
MICHAEL R BAILEY, 0000
DOUGLAS L BAKER, 0000
GREGG D BAILEY, 0000
JOHN W BAKER, 0000
TERRY W BAKER, 0000
WILLIAM R BALE, 0000
SHAWN D BALL, 0000
CHANDLER S BALLARD, 0000
JEFFREY A BARFIELD, 0000
WILLIAM P BARKER, 0000
JAMES R BANNISTON, 0000
ROBERT R BARNES, 0000
JUNIO O BARRER, 0000
ROBERT R BARDENSKI III, 0000
MARVIN BARKER III, 0000
MARK S BABES, 0000
PHILIP S BASHLE, 0000
DAVID E BARRINGER, 0000
HERALD D BASTIAN, 0000
MICHAEL A BAUMANN, 0000
EARNEST A BAZEMORE, 0000
BRYAN S BIAN, 0000
MARK R BIAN, 0000
MICHAEL D BIAN, 0000
JAMES E BRASKY, 0000
JONATHAN D BROWN, 0000
CRASH I BELL, 0000
SHELBY J BELL, 0000
GREGORY S BENDA, 0000
LELITRA D BENNETT, 0000
JASON A BENNETT, 0000
LISA C BENNETT, 0000
JOHN G BENISCH, 0000
GUS BENTON II, 0000
RANDALL M BENZT, 0000
BRUCE V BERNHARD, 0000
JACOB L BERLIN, 0000
TIMOTHY S BERNESTADT, 0000
JOHN E BESSEL, 0000
RICHARD A BEZOLD, 0000
CLINTON R BIGGE, 0000
MARTIN G BINDER, 0000
CARL D BIRD III, 0000
GABBY P BISHOP, 0000
ROBERT O BLACK JR., 0000
BOBBY F BLACKWELL, 0000
MARLON D BLOCKER, 0000
KINNELL L BOREME, 0000
JOHN B BOROH, 0000
STEVEN S BORST, 0000
*ANTONIO S BOSCA, 0000
JEFFREY W BOOTH, 0000
*JOHN J BOREK, 0000
KENTON W BOSTICK, 0000
RICHARD P BOWLER, 0000
ALEXANDER S BOYNT, 0000
CRIS J BOTT, 0000
ALLEN D BOZARTH, 0000
WILLIAM L BROWN, 0000
CARL J BROADAWAY, 0000
FRANCIS A BRANCH, 0000
JAMES M BRANDON, 0000
PORTIA BRANDONMCRAW, 0000
STEVEN BRATINA, 0000
DARCY A BRENNER, 0000
DANIEL T BREEK, 0000
DAVID D BREDS, 0000
RICHARD R BREED, 0000
ALFRED L BROWN, 0000
SCOTT T BROSHE, 0000
JAMES M BROSKY, 0000
DAVID J BROW 0000
CHARLES R BROWN, 0000
*CHRISTOPHER E BROW, 0000
FREDERICK Brown, 0000
PAUL D BROWN, 0000
RONALD E BROWN, 0000
TIMOTHY J BROWN, 0000
TODD A BROWN, 0000
STEVEN P BROWNING, 0000
NORMAN R BRUCKER, 0000
VINCENT D BRYANT, 0000
TIMOTHY K BURDINMEYER, 0000
ANDREW S BUCK, 0000
RINE B BURGESS, 0000
STEPHEN T BURD, 0000
PAUL S BURTON, 0000
KANS E BURUS, 0000
MATTN CHARLIS, 0000
GREGORY K BURTON, 0000
BRADLEY R BYLER, 0000
RICHARD M CASTER, 0000
SAMUEL M CACCAMO, 0000
GRETCHEN A CADOWLADDER, 0000
ANITA M CAIR, 0000
PAUL L CAL, 0000
KEVIN G CAN, 0000
DIAN C CALADON, 0000
LUIS A CAMACHO, 0000
ROBERT M CAMPBELL, 0000
SCOTT A CAMPBELL, 0000
LOURANCES L CARBONDA, 0000
SUE CANT, 0000
MAUREEN C CANTWELL, 0000
CHRISTOPHER R CARLSON, 0000
DAVID B CARR, 0000
DWAYNE CARMAN JR., 0000
MARK D CARMODY, 0000
STEVEN B CARRAGAN, 0000
CRAIG R CARSON, 0000
ALFRED D CARTER, 0000
FLORENTINO L CARTER, 0000
GLOVERA J CARTER, 0000
ROSEMARY M CARTER, 0000
MARK A CASINO, 0000
JERRY CASHON, 0000
STANLEY C CASONE, 0000
STEVEN S CASS, 0000
NICHOLAS L CASTROVIIOS, 0000
MICHAEL P CAV PY, 0000
MICHAEL A CREECH, 0000
JOSEPH L CREEY, 0000
KINNELL L CHANCE, 0000
CHRISTOPHER L CHANDLER, 0000
MICHAEL R CHANDLERS, 0000
DAVID A CHAPMAN, 0000
JAMES J CHAPMAN, 0000
ALLEN M CHAPPELL II, 0000
STEVEN B CHAPPELL, 0000
WILTON CLARK JR., 0000
TRACY E CRAWFORD, 0000
ROBERT G CREAMER JR., 0000
STEVEN S CHILDRESS, 0000
PAUL CHILDE, 0000
*ANTONIO S CHOW, 0000
CONRAD D CHRISTIAN, 0000
STEVEN M CHRISTY, 0000
Chamber Action

Routine Proceedings, pages S6627–S6834

Measures Introduced: Eight bills and four resolutions were introduced, as follows: S. 1087–1094, S.J. Res. 17, S. Res. 114–115, and S. Con. Res. 54.

Measures Passed:

Use of the Capitol Rotunda/Congressional Gold Medal Ceremony: Senate agreed to S. Con. Res. 54, authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

Patients’ Bill of Rights: Senate continued consideration of S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage, taking action on the following amendments proposed thereto:

Adopted:

By 89 yeas to 1 nay (Vote No. 195), McCain Modified Amendment No. 809, to express the sense of the Senate with respect to the opportunity to participate in approved clinical trials and access to specialty care.

Pending:

Frist (for Grassley) Motion to Commit to the Committee on Finance and the Committee on Health, Education, Labor and Pensions with instructions to report back not later than that date that is 14 days after the date on which this motion is adopted.

Gramm Amendment No. 810, to exempt employers from certain causes of action.

Nominations Confirmed: Senate confirmed the following nominations:

David Aufhauser, of the District of Columbia, to be General Counsel for the Department of the Treasury.

John B. Taylor, of California, to be an Under Secretary of the Treasury.

Thelma J. Askey, of Tennessee, to be Director of the Trade and Development Agency.

Claude A. Allen, of Virginia, to be Deputy Secretary of Health and Human Services.

Peter F. Allgeier, of Virginia, to be a Deputy United States Trade Representative, with the rank of Ambassador. (Prior to this action, Senate discharged the Committee on Finance from further consideration.)

Linnet F. Deily, of California, to be a Deputy United States Trade Representative, with the rank of Ambassador. (Prior to this action, Senate discharged the Committee on Finance from further consideration.)

Arthur F. Rosenfeld, of Virginia, to be General Counsel of the National Labor Relations Board. (Prior to this action, Senate discharged the Committee on Finance from further consideration.)

Executive Communications:

Petitions and Memorials:

Messages From the House:

Measures Referred:

Statements on Introduced Bills:
Committee Meetings

NOMINATIONS

Committee on Armed Services: Committee concluded hearings on the nominations of Alberto Jose Mora, to be General Counsel, and William A. Navas, Jr., to be Assistant Secretary for Manpower and Reserve Affairs, both of Virginia, both of the Department of the Navy, Diane K. Morales, of Texas, to be Deputy Under Secretary for Logistics and Materiel Readiness, and Michael W. Wynne, of Florida, to be Deputy Under Secretary for Acquisition and Technology, both of the Department of Defense, and Steven John Morello, Sr., of Michigan, to be General Counsel of the Department of the Army, after the nominees testified and answered questions in their own behalf. Ms. Morales was introduced by Senator Warner.

House of Representatives

Chamber Action

The House was not in session today. It will meet on Monday, June 25 at 12:30 p.m. for morning hour debate.

Committee Meetings

NATIONAL ENERGY POLICY

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality held a hearing on “National Energy Policy: Conservation and Energy Efficiency." Testimony was heard from David Garman, Assistant Secretary, Energy Efficiency and Renewable Energy, Department of Energy; Dean Peterson, Center Leader, Material Science Technology-Superconductivity Technology Center, Los Alamos National Laboratories; and public witnesses.

CONGRESSIONAL PROGRAM AHEAD

Week of June 25 through June 30, 2001

Senate Chamber

On Monday, At 2 p.m., Senate will resume consideration of S. 1052, Patients’ Bill of Rights and debate concurrently both the Frist (for Grassley) Motion to Commit and the Gramm Amendment No. 810. Also, Senator McCain, or his designee, will be recognized to offer an amendment.

On Tuesday, At 9:30 a.m., Senate will continue consideration of S. 1052, Patients’ Bill of Rights, and that there be 2 hours for debate in relation to the Frist (for Grassley) Motion to Commit and the Gramm Amendment No. 810, with a vote to occur on or in relation to the Frist (for Grassley) Motion to Commit at 11:30 a.m., followed by a vote on or in relation to Gramm Amendment No. 810. Further, that upon disposition of the McCain, or his designee, amendment, Senator Gregg be recognized to offer an amendment.

During the balance of the week, Senate expects to continue and complete consideration of S. 1052, Patients’ Bill of Rights, and any other cleared legislative and executive business.
June 28, Subcommittee on Transportation, to hold hearings to examine the status of intercity transportation, focusing on airways and railways, 10 a.m., SD–138.


June 28, Subcommittee on Foreign Operations, to hold hearings to examine international democracy programs, 2 p.m., SD–138.

Committee on Armed Services: June 26, Subcommittee on Strategic, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the Department of Energy’s Office of Environmental Management, 10 a.m., SR–222.

June 27, Full Committee, to hold hearings on the nomination of Dionel M. Aviles, of Maryland, to be Assistant Secretary of the Navy for Financial Management and Comptroller, the nomination of Reginald Judge Brown, of Virginia, to be Assistant Secretary of the Navy for Manpower and Reserve Affairs, the nomination of Stephen A. Cambone, of Virginia, to be Deputy Secretary of the Army for Financial Management and Comptroller, and the nomination of John J. Young, Jr., of Virginia, to be Assistant Secretary of the Navy for Research, Development and Acquisition, all of the Department of Defense, 9:30 a.m., SD–106.

June 28, Full Committee, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense program, focusing on the 2002 budget amendment, 2:30 p.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: June 26, to hold hearings on the nomination of Donald E. Powell, of Texas, to be a Member and Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, 10 a.m., SD–538.

June 27, Subcommittee on Economic Policy, to hold hearings on proposed legislation authorizing funding for the Defense Production Act, 2 p.m., SD–538.

June 28, Full Committee, to hold hearings on proposed legislation authorizing funds for the Iran and Libya Sanctions Act, 9:30 a.m., SD–538.

Committee on the Budget: June 27, to hold hearings to examine the outlook of the U.S. economy, 10 a.m., SD–608.

June 28, Full Committee, to hold hearings to examine the status of the budget surplus, 10 a.m., SD–608.

Committee on Commerce, Science, and Transportation: June 26, to hold hearings on the nomination of Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of Commerce; and the nomination of Allan Rutter, of Texas, to be Administrator of the Federal Railroad Administration; the nomination of Kirk Van Tine, of Virginia, to be General Counsel, and the nomination of Ellen G. Engleman, of Indiana, to be Administrator of the Research and Special Programs Administration, all of the Department of Transportation, 9:30 a.m., SR–253.

June 28, Subcommittee on Surface Transportation and Merchant Marine, to hold hearings to examine the Surface Transportation Board rail merger rules, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: June 26, to hold hearings to examine certain provisions relating to S. 472, to ensure that nuclear energy continues to contribute to the supply of electricity in the United States; S. 597, to provide for a comprehensive and balanced national energy policy; and S. 388, to protect the energy and security of the United States and decrease America’s dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly, 9:30 a.m., SD–366.

June 27, Full Committee, business meeting to consider pending calendar business, to be followed immediately by a hearing on the nomination of Vicky A. Bailey, of Indiana, to be Assistant Secretary of Energy for International Affairs and Domestic Policy; and the nomination of Frances P. Mainella, of Florida, to be Director of the National Park Service, and the nomination of John Walton III, to be Commissioner of the Bureau of Reclamation (pending receipt by the Senate), both of the Department of the Interior, 9:30 a.m., SD–366.

June 28, Full Committee, to hold hearings to examine climate change issues, focusing on science and technology studies, 9:30 a.m., SD–366.

Committee on Finance: June 26, to hold hearings to examine the United States-Vietnam Bilateral Trade Agreement, 2:30 p.m., SD–215.

Committee on Foreign Relations: June 26, to hold hearings on the nomination of Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues; the nomination of William A. Eaton, of Virginia, to be Assistant Secretary for Administration; and the nomination of Francis Xavier Taylor, of Maryland, to be Coordinator for Counterterrorism, all of the Department of State, 11:15 a.m., SD–419.

June 26, Full Committee, to hold hearings on the nomination of Margaret DeBardeleben Turwiler, of Alabama, to be Ambassador to the Kingdom of Morocco; the nomination of C. David Welch, of Virginia, to be Ambassador to the Arab Republic of Egypt; the nomination of Robert D. Blackwill, of Kansas, to be Ambassador to India; and the nomination of Wendy Jean Chamberlin, of Virginia, to be Ambassador to the Islamic Republic of Pakistan, 2:30 p.m., SD–419.

June 27, Full Committee, to hold hearings on the nomination of Clark T. Randt, Jr., of Connecticut, to be Ambassador to the People’s Republic of China; and the nomination of Douglas Alan Hartwick, of Washington, to be Ambassador to the Lao People’s Democratic Republic, 9:45 a.m., SD–419.
Committee on Governmental Affairs: June 26, Permanent Subcommittee on Investigations, to hold hearings to examine federal funding allocated to fight diabetes, the impact of the disease on society and current research opportunities to find a cure, 10 a.m., SH–216.

June 26, Full Committee, to hold hearings to examine the impact of electric industries restructuring on system reliability, 9:30 a.m., SD–342.

Committee on Indian Affairs: June 26, to hold oversight hearings to receive the goals and priorities of the Great Plains Tribes for the 107th Congress, 10:30 a.m., SR–485.

June 28, Full Committee, to hold hearings to examine the goals and priorities of the member tribes of the Montana Wyoming Tribal Leadership Council for the 107th Congress, 10 a.m., SR–485.

Select Committee on Intelligence: June 27, to hold closed hearings on intelligence matters, 2:30 p.m., SH–219.

Committee on the Judiciary: June 26, Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine concerns of ideology relative to the judicial nominations of 2001, 10 a.m., SD–226.

June 27, Full Committee, to hold hearings to examine the protection of the innocent, focusing on competent counsel in death penalty cases, 10 a.m., SD–226.

Committee on Rules and Administration: June 27, to hold hearings to examine a report from the U.S. Commission on Civil Rights regarding the November 2000 election and election reform in general, 10:30 a.m., SR–301.

June 28, Full Committee, to hold hearings to examine election reform issues, 10 a.m., SR–301.

House Chamber

To be announced.

House Committees

Committee on Agriculture, June 26, Subcommittee on Conservation, Credit, Rural Development and Research, hearing to review on rural development, 1 p.m., 1300 Longworth.

June 27, Subcommittee on Conservation, Credit, Rural Development and Research, hearing to review agricultural research, 10 a.m., 1300 Longworth.

June 27, Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing to review the food stamp program, 2 p.m., 1300 Longworth.

June 28, Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing to review forestry programs, 10 a.m., 1300 Longworth.

June 28, Subcommittee on Specialty Crops and Foreign Agriculture Programs, hearing to review foreign trade programs, 10 a.m., 1302 Longworth.

Committee on Appropriations, June 25, to consider the Energy and Water Development appropriations, fiscal year 2002, 3:30 p.m., 2359 Rayburn.

June 27, Subcommittee on Military Construction, on Quality of Life in Korea, 10 a.m., 2362–B Rayburn.

Committee on Armed Services, June 26, Special Oversight Panel on Department of Energy Reorganization, hearing on the management of the National Nuclear Security Administration, 1:30 p.m., 2216 Rayburn.

June 26, Subcommittee on Military Readiness, hearing on the readiness posture of the military service, 3 p.m., 2212 Rayburn.

June 26, Subcommittee on Military Research and Development, hearing on the Defense Science and Technology Program, 10 a.m., 2118 Rayburn.

June 27, Full Committee, hearing on military training on the island of Vieques, 10 a.m., 2118 Rayburn.

June 27, Subcommittee on Military Procurement, hearing on the budget for atomic energy defense activities of the Department of Energy, 2 p.m., 2118 Rayburn.

June 28, Special Oversight Panel on Terrorism, hearing on force protection at U.S. military installations, 1 p.m., 2212 Rayburn.

Committee on the Budget, June 27, hearing on Forthcoming Extension/Modification of the Budget Enforcement Act (Spending Caps and PAYGO), 10 a.m., 210 Cannon.

Committee on Energy and Commerce, June 27, Subcommittee on Energy and Air Quality, hearing on Hydroelectric relicensing and nuclear energy, 10 a.m., 2123 Rayburn.

June 27, Subcommittee on Health, hearing on Advancing the Health of the American People: Addressing Various Public Health Needs, focusing on the following measures: H.R. 293, to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary of Indian Health; H.R. 632, Men’s Health Act of 2001; H.R. 717, Duchenne Muscular Dystrophy Childhood Assistance, Research and Education Amendments of 2001; H.R. 943, Flu Vaccine Availability Act of 2001; H.R. 1340, Biomedical Research Assistance Voluntary Option Act; H. Con. Res. 25, expressing the sense of the Congress regarding tuberous sclerosis; H. Con. Res. 36, urging increased Federal funding for Juvenile (Type1) diabetes research; H. Con. Res. 61, expressing support for a National Reflex Sympathetic Dystrophy (RSA) Awareness Month; and H. Con. Res. 84, supporting the goals of Red Ribbon Week in promoting drug-free communities, 1 p.m., 2322 Rayburn.

June 28, Subcommittee on Environment and Hazardous Materials, hearing on the following brownfields measures: S. 350, Brownfields Revitalization and Environmental Restoration Act of 2001; the Gillmor Discussion Draft; and the Democratic Discussion Draft, 10 a.m., 2322 Rayburn.

June 28, Committee on the Budget, hearing on Forthcoming Extension/Modification of the Budget Enforcement Act (Spending Caps and PAYGO), 10 a.m., 210 Cannon.

Committee on Financial Services, June 26, Subcommittee on International Monetary Policy and Trade, hearing entitled “Trade in Financial Services—Current Issues and Future Developments,” 2 p.m., 2128 Rayburn.

June 26, Subcommittee on Oversight and Investigations, hearing entitled “The SEC’s Role in Capital Formation: Help or Hindrance?” 9:30 a.m., 2128 Rayburn.

June 28, Subcommittee on Oversight and Investigations, hearing entitled “The SEC’s Role in Capital Formation: Help or Hindrance?” 9:30 a.m., 2128 Rayburn.

June 28, Subcommittee on Oversight and Investigations, hearing entitled "Trade in Financial Services—Current Issues and Future Developments,” 2 p.m., 2128 Rayburn.

June 28, Subcommittee on Oversight and Investigations, hearing entitled “The SEC’s Role in Capital Formation: Help or Hindrance?” 9:30 a.m., 2128 Rayburn.

June 28, Committee on Domestic Monetary Policy, Technology, and Economic Growth, hearing entitled
“ESIGN—Encouraging the Use of Electronic Signatures in the Financial Services Industry,” 9:30 a.m., 2128 Rayburn.

Committee on Government Reform, June 26, Subcommittee on the District of Columbia, hearing on the Reform of the Family Division of the District of Columbia Superior Court—Improving Services to Families and Children, 12 p.m., 2154 Rayburn.

June 28, Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing on the Reauthorization of the Drug Free Communities Act, 10 a.m., 2154 Rayburn.

June 28, Subcommittee on Technology and Procurement Policy, hearing on the Best Services at the Lowest Price: Moving Beyond a Black-and-White Discussion of Outsourcing, 2 p.m., 2154 Rayburn.

Committee on House Administration, June 28, to continue hearings on Campaign Finance Reform, 1:15 p.m., 1310 Longworth.


June 27, Subcommittee on International Operations and Human Rights, hearing on Organs For Sale: China’s Growing Trade and Ultimate Violations of Prisoners’ Rights, 1:30 p.m., 2172 Rayburn.

June 28, Subcommittee on the Western Hemisphere, hearing on A Review of the Andean Initiative, 11 a.m., 2172 Rayburn.

Committee on the Judiciary, June 26, Subcommittee on Commercial and Administrative Law, hearing on the following bills: H.R. 1552, Internet Tax Nondiscrimination Act; and H.R. 1675, Internet Tax Nondiscrimination Act, 2:30 p.m., 2141 Rayburn.

June 27, Subcommittee on Courts, the Internet, and Intellectual Property, hearing on S. 487, Technology, Education, and Copyright Harmonization Act of 2001, 10 a.m., 2141 Rayburn.

June 28, Subcommittee on Crime, hearing and markup of H.R. 2146, Two Strikes and You’re Out Child Protection Act, 1:30 p.m., 2237 Rayburn.

Committee on Resources, June 26, Subcommittee on Energy and Mineral Resources, hearing on H.R. 2187, to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves, 10 a.m., 2141 Rayburn.

June 26, Subcommittee on National Parks, Recreation and Public Lands, to mark up the following bills: H.R. 271, to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center; H.R. 434, to direct the Secretary of Agriculture to enter into a cooperative agreement to provide for retention, maintenance, and operation, at private expense, of the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California; H.R. 451, Mount Nebo Wilderness Boundary Adjustment Act; H.R. 695, Oil Region National Heritage Area Act; H.R. 1628, El Camino Real de los Tejas National Historic Trail Act of 2001; H.R. 427, to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon; H.R. 1937, Pacific Northwest Feasibility Studies Act of 2001; and H.R. 2187, to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves, 9:30 a.m., 1324 Longworth.

Committee on Rules, June 25, to consider H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, 5 p.m., H–313 Capitol.

June 26, to consider a measure making appropriations for the Department of Agriculture, Rural Development, Food and Drug Administration and Related Agencies for the fiscal year ending September 30, 2002, 5 p.m., H–313 Capitol.

Committee on Science, June 26, Subcommittee on Research, hearing on Reinventing the Internet: Promoting Innovation in IT, 10 a.m., 2318 Rayburn.

June 26, Subcommittee on Space and Aeronautics, hearing on Space Tourism, 2:30 p.m., 2318 Rayburn.

June 28, Subcommittee on Environment, Technology, and Standards, hearing on Standards-Setting and United States Competitiveness, 2 p.m., 2318 Rayburn.

Committee on Small Business, June 26, briefing on the Administration’s Trade Agenda: How Does Small Business Fit In? 10 a.m., 2360 Rayburn.

June 26, Subcommittee on Tax, Finance and Exports and the Subcommittee on Workforce, Empowerment and Government Programs, joint hearing on access to capital, 2 p.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, June 26, Subcommittee on Aviation, hearing on Runway Incursions, Focusing on the Technology to Prevent Collisions, 2 p.m., 2167 Rayburn.


Committee on Ways and Means, June 28, Subcommittee on Human Resources, hearing on Child Support and Fatherhood Proposals, 2 p.m., 1100 Longworth.

June 28, Subcommittee on Social Security, hearing on Social Security Disability Programs’ Challenges and Opportunities, 2 p.m., B–318 Rayburn.
Select Committee on Intelligence, June 27, Working Group on Terrorism and Homeland Security and the Subcommittee on Intelligence Policy and National Security, executive, joint briefing on Counterterrorism Issues, 2 p.m., H–405 Capitol.

June 28, Subcommittee on Technical and Tactical Intelligence, executive, hearing on NIMA, 10 a.m., H–405 Capitol.
Next Meeting of the SENATE
2 p.m., Monday, June 25

Senate Chamber

Program for Monday: Senate will continue consideration of S. 1052, Patients’ Bill of Rights.

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Monday, June 25

House Chamber

Program for Monday: To be announced.