United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, FRIDAY, JUNE 22, 2001 *No. 88*

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, June 25, 2001, at 12:30 p.m.

Senate

FRIDAY, JUNE 22, 2001

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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 2001.

To the Senate:

Under the provisions of rule I, 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.

The Senator from Arizona.

Mr. MCCAIN. Madam President, I intend to speak again shortly before the vote, but I would like to discuss the President's threat to veto the Patients' Bill of Rights, the letter that was sent over yesterday.

● 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 compromises on the outstanding issues that still divide us. Negotiations 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 raised 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 more 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 legislation requires that all 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 recommendation adopting 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 health care benefits, 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 overseen 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 causes of action in Federal court 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 at the Federal level.

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 the actual exercise of 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 repeat, we cannot sacrifice the principles upon which this legislation is based, but we certainly can discuss and perfect this legislation. That is something we want to continue to do. As we speak, there are groups who are discussing ways of improving the legislation. We are open to it.

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 soon is a critical one. It puts 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-Edwards-Kennedy bill and rejects the inadequate protections contained in the alternative legislation.

Our friends 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 carried on in 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 costs of all clinical trials that offer a meaningful opportunity for cure or improvement. It also makes clear that coverage should be provided without further delays—no ifs, ands, or buts. If someone can benefit from a clinical trial, if their doctor recommends it, and if they want to participate in it, 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 all of the trials.

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 the cost of 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 private sector 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 competing 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 disagrees 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 following 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 type of cancer. The Christie family's relief turned to shock when their HMO told them it could not cover Carly's treatment by the children's hospital. Instead, they insisted that the treatment be provided by a doctor in their network, an adult urologist with no expertise 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 right to a speedy, fair appeal to an independent review agency to get the care their daughter needed.

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

Mr. EDWARDS. Madam President, I rise today 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 young child, 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 that it was medically necessary for 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 someone sitting behind a desk somewhere many miles and many States away from Ethan.

This is a photograph of young Ethan. As 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 U.S. Circuit 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 paying 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.

Young Ethan, 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 odds are almost 100 percent 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 area 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 patients 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 reasonable.

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 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 benefitting individual patients and society at large that we can do this transformation 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 this particular right.

The Senator from Massachusetts, in responding to my comments, mentioned two things. One, studies show these clinical trials do not cost very much. I have two points in response. 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 are 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 what we know 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 passed 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 diseases in clinical trials. I do not 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 most 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 the HMO.

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 cost, but 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 1,800 of those are cancer trials. Yes, 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 held 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, under the McCain-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 cause of action in their bill, we open the door to suing or potentially suing the HMO because we are forcing them or encouraging them to pay for these clinical trials. I would like to see some modification in the language so we do not open that door.

The amendment by 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 at no additional cost.

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. If 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. Can the Senator show me where the appeals provisions are in his bill with regard to speciality 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 speciality care, there is no appeals 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 speciality care would be one of those. When you are talking about care and access to speciality 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 plans to cover OB/GYN care under the designation of a primary care provider. Thus, providing direct access to a participating physician who specializes in obstetrics and gynecology. Additionally, access to specialists 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.

I ask 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.

I yield the remaining time.

The PRESIDING OFFICER. If neither side yields time, time will be charged equally to both sides.

Mr. FRIST. How much time remains?

The PRESIDING OFFICER. The Senator has 13½ minutes.

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 is not 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; indeed, in 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 appropriate access 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 not in this Senate 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 decisionmaking 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 murmur, with sore ribs, 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 system where 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 the more hoops people go through, the more of a 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 does 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 promising access to investigations and clinical trials? You can go keep 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 poor 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 do the cost estimates. It grossly underestimates. 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 .08. If you agree with what most economists tell us, a 1 percentage point in premium increase results in the loss of insurance for 200,000 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 many 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 coverage and they have the option to cover their dependents. We have had some health problems among our employees in the last few years, so our options in looking at new insurers have been limited. We received a 30% increase in our 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 cost of premiums 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 and this proposed Patient's Bill of Rights, it brings more job losses and devastation into the realm of possibility.

I have letter after letter after letter.

Again, I am not 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.

The Senator from Arizona commented on the statement of administration policy. The President issued a statement yesterday. I am sure it has already been made part of the RECORD. I don't think we need to do that at this point in time. But, again, the President of the United States made it very clear. It says:

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. That is 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 shift to that standpoint. I think we have demonstrated that. We made proposals for changes in language of this sense of the Senate, and I am very hopeful we will be able to do that as we go forward.

I am happy to yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

MODIFICATION TO AMENDMENT NO. 809

Mr. MCCAIN. Madam President, I have a modification at the desk. I ask unanimous consent that it be made a part of the sense-of-the-Senate resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification to amendment No. 809 is as follows:

Add the following to the ''Findings'' section:

(11) While information obtained from clinical trials is essential to finding cures for diseases, it is still research which carries the risk of fatal results. Future efforts should be taken to protect the health and safety of adults and children who enroll in clinical trials.

(12) While employers and health plans should be responsible for covering the routine costs associated with Federally approved or funded clinical trials, such employers and health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable state or Federal liability statutes.

Mr. MCCAIN. Madam President, I ask unanimous consent to be allowed to speak for 2 minutes on my modification.

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

Mr. REID. Madam President, how much time is left?

The PRESIDING OFFICER. The sponsor has 1 minute, and the opposition 1 minute 20 seconds.

Mr. MCCAIN. Madam President, in discussions with the Senator from Tennessee on the issue of clinical trials, the Senator from Tennessee brought forward some legitimate concerns, in our view, about increased liability or increased costs associated with clinical trials. He has asked, and we have agreed, to additional language in the findings section of this sense-of-the-Senate resolution which basically states that research still carries the risk of fatal results and future efforts should be taken to protect the health and safety of adults and children, and, also, while employers and health plans should be responsible for covering routine costs associated with federally approved or funded clinical trials, such employers and health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials consistent with any applicable State or Federal liability statutes.

I appreciate the input of the Senator from Tennessee. I am glad we are able to come to agreement on this. I hope we can all support the sense-of-the-Senate resolution.

Mr. FRIST. Madam President, my colleague and friend from Arizona and I are in agreement that, No. 1, we need to address the problems in the human subject research today. Second, we don't intend for the bill that we are debating or anything that we might pass to hold employers and plans legally liable for the design, implementation, or bad outcomes of trials.

I very much appreciate being able to work with the Senator from Arizona on these modifications to the underlying amendment. I believe it is important for us to continue to work together as we go forward and address this bill.

I know that we can pass a strong, enforceable Patients' Bill of Rights, with the appropriate modifications, that will be signed by the President of the United States. That would be a great service to the American people, as we go forward.

Madam President, I look forward to supporting the amendment and urge my colleagues to do so.

The PRESIDING OFFICER. The Senate majority leader.

Mr. DASCHLE. Madam President, I will use my leader time just to make a brief announcement.

For the information of all Senators, this will be the last vote of the day and of the week. We anticipate another Republican amendment, after the vote on this amendment, and amendments to be considered today and on Monday. There will be votes Tuesday morning on the amendments to be considered today and on Monday. Should we complete our work on the supplemental and on the Patients' Bill of Rights, as well as the organizing resolution, by Thursday night, I do not anticipate a session or votes on Friday, a week from today. So there will be no votes this coming Friday, a week from today, if we are able to complete our work on those three matters by Thursday night. So the next vote will be cast on Tuesday morning. Consideration of amendments will take place between now and then.

I yield the floor.

VOTE ON AMENDMENT NO. 809, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now vote on or in relation to the McCain amendment No. 809, as modified.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment No. 809, as modified. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS), the Senator from Georgia (Mr. MILLER), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent attending a funeral.

I further announce that, if present and voting the Senator from Delaware (Mr. BIDEN) would vote ''aye.''

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAIG), the Senator from New Mexico (Mr. DOMENICI), the Senator from New Hampshire (Mr. GREGG), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

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

NAYS—1

Enzi

NOT VOTING—10

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

The amendment (No. 809), 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 GRAMM 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.

AMENDMENT NO. 810

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, or plan sponsor—'' 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 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.

Beginning on page 160, strike line 21 and all that follows through line 14 on page 164, and insert the following:

''(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Paragraph (1) does not—

''(i) 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), 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.

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

Mr. GRAMM. I am happy to.

Mr. KENNEDY. Would the Senator give us some idea as to 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 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 a time definite for a vote on that 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—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 their 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 employees 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 plan that they helped their 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 employees: You take my money or your money or 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 by courts 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 suing employers. I want to talk about their decision not to let employers be sued, the language they used, and then I want to talk about the amendment I have submitted and how that amendment does not allow employers to be sued and how it settles this issue once and for all.

First, as we have all heard, seen on television, and read in the newspaper as this debate has evolved, proponents of this bill have said over and over again that employers cannot be sued. When you look at the language of the bill, basically it appears they are right.

In fact, on page 144 of the bill—I know my colleagues in the Chamber can see these words. I do not know if other people watching the debate can, but I am going to read part of it anyway so you will hear it.

On page 144 of S. 1052, which is the McCain-Edwards-Kennedy bill, there is a very bold headline that says: ''Exclusion of Employers and Other Plan Sponsors.'' Obviously, that headline is promising. Then it says:

(A) Causes of Action Against Employers and Plan Sponsors Precluded.—

Then it goes down and sure enough says: ''Subject to subparagraph (B)'' and, obviously, that should be an immediate warning because what they are about to say is relevant only in the context of a paragraph you have yet to read:

Subject to subparagraph (B), paragraph (1)(A) 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 employment.)

When the proponents of this bill say you cannot sue employers, they are obviously talking about paragraph (A). In fact, if the provision related to employers 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 can 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 suing employers, and they tried to come up with all kinds of ways 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 health insurance 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 carveout where they said:

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, where they excluded 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 because 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 can 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 employee calls the health plan and tries to tell them how to run the health plan. None of us are for that. Here are relevant 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 a 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 bought coverage under the health plan. If they agree with me, I get the health care; if they disagree with me, I can go to Federal court and sue for the health

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 role of final 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 in any way. 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 or looking at the cost of relative 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 them 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 going on 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 section of the 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 a plan.

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 of unintended consequences is such, and the protections in all of our Patients' Bill of Rights are strong enough that the most prudent avenue to follow 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 blueprint. That was the action 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—the employers.

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.

But 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 a plane. With the indulgence of those who are on the floor, I would like to yield the floor and allow her to be recognized.

The PRESIDING OFFICER. The Senator from Texas.

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 that it would be a model for what we would want to do for every State in America that doesn't already have laws. I think it is an important point that we are not trying to preempt State laws in the Frist-Breaux-Jeffords plan. I support that. I think it is a very important point.

The Kennedy-McCain-Edwards bill preempts the States that have already acted. I don't think we need to do that. The Texas law is serving very well in Texas. Yes. We can cover the plans that are not covered by State law in the Federal plan. But there is no reason to preempt a State law that is already working in a particular State.

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 the point about this amendment as 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 coverage options to their employees. We want to make sure that everything we are doing will be an encouragement—not a 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 that purchases 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. Even when they can't, they have found that it is too expensive, but they feel badly about it. They would really like to do that.

But the other statistic we have seen is that the number of people who are uncovered are actually people employed. They do not take health care coverage because it is too expensive even though the employer pays part of the premiums. That is the No. 1 reason given by an employee who is not covered, even though they have access to health care coverage.

This is an employee who says: I need that money in my paycheck more than I need the health care coverage for myself or my family. That is an astounding thing to say because most employees would rather have health care coverage even more than higher wages because they know the importance of that for themselves and their families.

So I do think when we look at the bill that is before us today that one of the key components should be that we try to keep the costs to employers down. That is why we want to specifically say in the bill that employers will not be able to be sued.

We have had some debates here where it seems that some of the people who are supporting the McCain-Kennedy-Edwards bill think employers cannot be sued. What we want to do is clarify that. Whatever language it takes, we want to do that. But we know the Texas language has worked. We know it has been referred to. So we want to put the Texas language on suing employers in the bill to assure that costs will not be raised, and to assure that employers will be encouraged—not discouraged—from offering their employees health care benefits.

Last point—and then I will turn this over to the others who are waiting to speak—I have talked to big employers and small employers who now offer health care coverage who say, unequivocally, if it is not very specifically clear that you cannot sue an employer for offering health care coverage to employees, they will drop the coverage. They will just give the employee a certain amount and say: You find health care coverage with this amount of money the best way you can. I can't be connected with it because I can't afford to take the risk that I might be liable in the millions of dollars that are provided for in the Kennedy-McCain-Edwards bill. That would be too costly, so I can't do it.

Even really big employers would drop their coverage. We could wreck the health care system and the stability of the coverage that people have if we do not explicitly keep employers from being able to be sued for giving their employees this very important option as a perk of employment.

This is the basis of coverage in our country. We cannot take a chance that we would mess it up for the people who are covered in our country, and those we hope will be covered, if we encourage employers to act. I hope we can adopt this very clear language that came right out of the Texas law where it has worked very well to make sure that we encourage employers to continue to offer health care coverage for their employees.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, it is important to remember that what underlies today's debate are the lives of real people. This is about healthy new babies entering the world, parents worrying in the middle of the night when their child has a fever, and families coping with a terminal illness. It is about the quality of life.

When your family is dealing with a medical crisis, it is time to come together in love and support. It is not the time to have to argue with an HMO over whether they will allow your child to go to an emergency room or whether your elderly parent is allowed to see a specialist.

Physicians should not have to ask permission from HMOs to provide patients with the care they need. There is something fundamentally wrong with our health care system when medical decisions are not made by doctors, but by HMOs.

One year ago this month, a comprehensive Patients' Bill of Rights came before the Senate. It was a strong bill that protected all Americans. It was designed to put patients before profits. It held managed care organizations accountable for their actions. It would have made a difference. What happened to this legislation? It failed by one vote—one vote.

My late husband, Mel Carnahan, understood the power of one vote in the Senate. He ran for the Senate because he believed that his one vote would make a difference. I am in this Chamber today because I share that belief. That is why I support the McCain-Edwards-Kennedy Bipartisan Patient Protection Act.

Many Missourians know from firsthand experience the power that a patient protection law can have. In 1997, Governor Mel Carnahan signed into law one of the most comprehensive HMO consumer protection laws in the country.

What happened in Missouri during that time took real political courage. Legislators such as Tim Harlan and Joe Maxwell stood up to the powerful HMOs and said: Enough is enough.

Those who opposed the Missouri HMO reform law—like those who oppose the McCain-Edwards-Kennedy bill—said that costs would increase significantly, employers would drop coverage, and patients would crowd the courts with lawsuits.

How many of these dire predictions came true? None; absolutely none.

The insurance lobby predicted costs would increase by 24 percent. After the law was passed, insurers, business groups, professional medical societies, and health systems called for a review

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 or 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 Senate 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 Saper 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 decision.

Today many Missourians currently have the right to access emergency room services without prior authorization from their HMO. I would like 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. A husband and wife 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 ended up in Doug's emergency department after he slumped over unconscious in the passenger seat on the highway less than half way to their destination. The doctors were unsuccessful in resuscitating him, and when the physician 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 experiences trying to provide 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 a hospital in 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 we are 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—whenever 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 the OB/GYN'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.

It is time for the Senate to pass the McCain-Edwards-Kennedy bill. As Missouri has seen, HMOs will provide better care when they are forced to step up to the plate.

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 as to 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.

That is what we 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 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 uninsure a bunch of people. As heartrending as some of these stories we hear are, I hope in a couple of years we don't have heartrending stories of people whose employers walked away from insurance, 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 go 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, for example, attending 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 attending physicians, or whether you are talking about hospitals, the sponsors of this bill have 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 say 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, for example, to deny coverage, or if they fail to perform any other duty under this act—whatever that might be.

Then they go on for 2, 3, or 4 pages in the bill to describe what direct participation means and what 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, 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 engage in any willful misconduct, do their best, have some of their employees perhaps involved in the initial stage, and it goes on up through the appeals 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 review, or anyone else in the process, 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 was exonerated, 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 an employer, 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 kind of a possibility, if this 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 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, or it will drive us all bankrupt and we will 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 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 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.

So now we are at the point—after having gone through the high health 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 estimates, will throw more than a million people off insurance.

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 for.

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 some 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 patients to the plan in order for them to properly consider coverage? That would be a deliberate act, too. They have been carved out of this process. One can come up with deliberate acts of misconduct for other entities already carved out because we are not primarily looking at them. We do not want to drive them out of the system or place undue burdens on them.

If something such as that happened, the person on the receiving end of the phone call is definitely liable. The HMO would be liable under a situation such as that. As Senator GRAMM pointed out, the final decision is not with anyone who is subject to being influenced by an employer.

This bill spends 12 pages under the original version setting up this independent review process and qualified external review entity to make sure he is qualified, to make sure he is independent, to make sure he cannot be swayed by anyone, to make sure the Secretary is looking over his shoulder at all times and having to report back to look at statistics to make sure he is not going too far with the employer in too many cases. He is the guy who will be making the final decisions in most of these cases, not someone the employer is going to be able to call up.

Incidentally, it raises another interesting question in this bill. It is not directly related to the employer issue, but they will be caught up in it like anyone else.

There is an excellent review process that is set up by this bill. It has the internal claims process, and then it has an internal review 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 experimental operation for which 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 claims 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 his 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 with all these 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 still 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 attending physicians, 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 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 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, and they are 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. Both sides want a Patients' Bill of Rights. That is the fundamental issue before the Senate. The fundamental issue is getting patients the

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 raise 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 a 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 the bill that has ever 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 see it signed into law by the President. 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 don't have a 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, not a solution.

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 shoe store in Gillette, WY. We saw 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 gold mine out there, that it is 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 insurance. The businesses want 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. They are going to get out. 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. There are 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 150, 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 144 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 and see what the exceptions are. I mentioned 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, this applies to small businesses. 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 deductible. That is another sore point that ought to be cleared up while we are doing the bill. We had that opportunity the other 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 big corporations get deductibility 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 do that. How did we choose not to do that? Not by saying we are not going to allow the deductibility by the small employer. None would have voted for that. Instead, we said there is this little parliamentary tactic that we can use. We can say that, since the House didn't send us this tax provision, we can confuse everybody and vote against it and keep those self-employed people from getting their insurance and never have to say that is really what we are doing. Fifty-two Members—two more than needed—said they weren't going 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 a little bit concerned about the liability that is involved in this bill. If they really intended to include employers and plan sponsors, why didn't they do it like they did for physicians? Why didn't they do it like they did for hospitals? The wording can be just as easy. That is what this amendment is about.

The bill is purported to follow the Texas plan. I congratulate the Texas Senators for kind of making them put their writing where their mouth is. The amendment we have here is the Texas version. 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 sat through all 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 their health 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 in 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 by 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 a vote that is 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 against any sense of the Senate that comes here, unless it gives direct instructions to the Senators themselves. That is what the sense of the Senate was designed for. It wasn't designed to tell the House, or the President, or anybody else what to do. It was designed to give very specific instruction to us. But we have gotten away from that tradition.

Now if there is something that is peripherally related, we want to make a big deal out of it, such as running an ad to the country. Then we propose a sense of the Senate. There have been some fascinating ones around here—ones that nobody could understand how anybody could vote against. I do not understand how anybody could vote against them either because they don't achieve anything. But they make this great political ad.

I thought that during some of this discussion there would have been an amendment that corrected a few things in this bill—maybe not even major things, but at least made a correction.

I was disappointed to hear the leader before this discussion say he thought they had compromised as much as they could. That is not how we do legislation around here. You can't have this great smile and talk about bipartisanship and then say you compromised as much as you can before the debate starts. That is not how we do legislation.

I told you that we agree on 80 percent of what is in the bill. That is the 80 percent that deals with the patients. Health insurance is voluntary in this country. I know there are a lot of people who prefer that were not the case, but we had that as another tax bill in the bureaucracy to provide inadequate care, as Canada is purported to do. At least I assume they do, since most of their people come down here for care. But we have a system where business pays, or business pays part and the employees pay part, or the individuals buy it on their own, or, in the worst of all worlds, there is no insurance in any combination from anybody.

We have to make sure this Patients' Bill of Rights doesn't became a patient bill by driving up the costs, which, of course, will make some others decide 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 agreed to 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 purported that this is 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. Then it makes it just as straightforward for physicians and for hospitals and for employers. It puts them all in the same category. We say: Look, we know mistakes are made sometimes. But 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 consequences 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 spiraling 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—

> member companies are small businesses and thus the prospect of facing a $5 million liability cap on ''civil assessments'' is

daunting. The financial reality is that if faced with such a large claim, many of our members could be forced to drop employee health insurance coverage rather than face the potential liability or possibly even shut their business down.

The Corporate Health Care Coalition says:

Enactment of this bill (McCain-Kennedy) would unleash a flood of state court cases aimed at pushing the limits on coverage of tested and often questionable medical treatments. Cases that have been brought in state courts against state employee plans have produced huge punitive damage awards ($120 million in a recent California case) that have reshaped health plan coverage in the plans. . . . Uncapped liability exposure driven by aggressive personal injury lawyers will raise health care costs for employees and make health insurance increasingly unaffordable to individuals. Patient rights begin with coverage.

Once again, we are trying to give people a Patients' Bill of Rights, not a patient's bill.

I have to also quote the American Association of Health Plans:

Employers who voluntarily provide health care benefits to their employees can be pulled into lawsuits under the Kennedy-McCain bill. Under Kennedy-McCain, businesses could be forced to pay unlimited economic and non-economic damages, plus unlimited damages under state law and up to $5 million of unprecedented punitive damages under federal law. One lawsuit could easily bankrupt a small business.

The cost of pursuing it alone could undoubtedly bankrupt some of the small businesses with which I am familiar.

Also the American Association of Health Plans says:

According to a recent survey of 600 national employers by Hewitt Associates, 46 percent of employers would be likely to drop health care coverage for their workers if they are exposed to new health care lawsuits.

Finally, from the American Health Care Partnership, the founder and chief medical officer says:

Employers, especially small and medium sized ones, operating under tight profit margins, cannot afford to place themselves at the risk imposed by onerous punitive damages. . . . Companies will mitigate the risk by either dropping health coverage altogether, or make health care a defined contribution, which, due to adverse risk selection, will make health care insurance unaffordable for most of the sick.

Again, yesterday, we passed up the opportunity to help small businesses. We used a parliamentary procedure, technique, to remove some of the liability for Members of this body, so they could vote against having deductibility for insurance for the self-employed; that is, for the self-employed and their employees.

Now we are saying it is OK if we have good, clear, concise language in this bill that exempts physicians from lawsuits, and it is OK if we have clear, concise language in here that exempts hospitals, but it is not OK to exempt the people paying the bill, the people providing voluntary health insurance in this country.

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 kind of debate that 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 Employers and Other Plan Sponsors.'' 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 employment).

It does go 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 shall 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, 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 anyone directly providing and making medical decisions—possibly a group of physicians together in a business or some other medical group. The employers I know either have their 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 would not want to have 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 chain saw.

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 cared for himself, his employees, his family, was packed up, 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

didn't receive or the cost of the procedure, but they cannot be held accountable for the loss of this man's business, for his life dramatically changing, his and his family's, for the permanent disability and the ongoing pain he tells me he has and the medical costs he now has. He cannot hold the HMO accountable for the consequences of the medical decisions they made.

That is the debate, plain and simple. There are only two categories of people—and this has been said by colleagues of mine over and over again on the floor, but we should all understand—in the United States of America who cannot be held accountable for their decisions: foreign diplomats and HMOs. That is pretty shocking.

This bill says that HMOs, insurance companies, have to be held accountable for the medical decisions they make that affect our families. People are paying the bill. Businesses are paying the bill. I know they want their employees to have the health care they are assuming they will receive because they are paying for it.

If we ask and if we are factual about what this bill entails, if people understand the truth about this bill and that they are not held accountable unless the medical decision is made by the business and that the difference in cost is 23 cents a month and you ask them: Would you add 23 cents a month per employee to make sure that when you get done, the health care is really there and that there are good medical decisions and accountability if there is a problem? I know the people of Michigan say yes.

That is what this is about: 23 cents a month per person. We know that when this provision has been put in, in other States, when patients' rights have been put in, in the State of Texas—almost the same language—they have averaged, I think it is five lawsuits a year. California has put in this language; so far, zero lawsuits. These are scare tactics being put forward by the people who control the decisions today—the HMOs and the insurance companies.

I appreciate from their perspective, they have a good thing going. They control the decisions. They can't be held accountable. That is a great deal, if you can get it. But it is a terrible deal if you are a mom or a dad who cares about your kids, if you are a business that cares about your employees, if you are a family farmer worried about what is going to happen on the farm, if you are anyone needing care or if you are anyone providing care. The frustration of doctors and nurses and dentists and other providers in this country is unbelievable because they see every day what happens.

This is not about lawsuits. We have protected employers. This is about good medical decisions. There is no evidence whatsoever that good medical decisions will not be made and that instead we will just be increasing lawsuits. There is no evidence anywhere beyond rhetoric that says that that is true.

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.

One 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 cost. In fact, during 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 now. When I talk to 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 think maybe the distinguished majority whip has a unanimous consent request.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 1052 on Monday, June 25, at 2 p.m. and that it be in order on Monday to debate concurrently both the Grassley motion and the Gramm amendment No. 810; further, that on Monday, Senator MCCAIN or his designee be recognized to offer an amendment; further, when the Senate resumes consideration of S. 1052 on Tuesday, June 26, at 9:30 a.m. there be 2 hours for debate in relation to the Grassley motion and the Gramm amendment with the time for debate equally divided in the usual form; further, at 11:30 on Tuesday, the Senate vote in relation to the Grassley motion, followed by a vote in relation to the Gramm amendment, with 2 minutes of closing debate prior to each rollcall vote, divided in the usual form, with no second-degree amendments or motions in order prior to the votes; further, that upon disposition of the McCain, or designee, amendment, Senator GREGG, the manager of the bill, or designee, would be recognized to offer an amendment.

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

Mr. REID. Thank you, Mr. President. I appreciate my friend's courtesy in yielding 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 make a couple points that 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 the HMO. 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.

So it 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

abused and not being admitted to the emergency room—that has never been an issue in this debate. Both parties agree on that. That is part of about 90 percent of the provisions in both bills that are identical. What we are not debating here or what the majority side of the aisle, the Democrats, don't want to debate is suing employers. That is the issue that is before us.

The amendment that I proposed is an amendment from the Texas law, and we chose it because the proponents of this bill hold the Texas law up as an example of what they want to do. The Texas law is the result of the Texas Legislature looking at this problem and concluding that they wanted people to be able to sue their medical plan, they wanted people to be able to sue HMOs; but because your employer helped you buy health insurance, they didn't want to put the employer in harm's way, where your employer could be sued.

Why didn't they? For two reasons, really: One, the employer is the good guy here. Nobody makes them help you buy health insurance. They choose to do it. We didn't want them to choose not to do it. Secondly, we knew if we made it so you could sue employers for the simple act of doing something good for their employees that especially small businesses without deep pockets would be forced to cancel their health insurance.

So the Texas Legislature wrote their law, which proponents of this bill say is almost identical to the bill before us, which, as I will show, is not true. But the Texas Legislature basically said that this chapter, the provision of the bill, does not create any liability on the part of an employer or an employer group purchasing organization that purchases coverage or assumes risk on behalf of its employees. We are trying to exempt employers from lawsuits.

Mr. FRIST. Will the Senator yield on that?

Mr. GRAMM. I am happy to.

Mr. FRIST. It is clear that this whole issue of suing employers is critically important.

In debates, again and again we hear that the Kennedy bill does not allow employers to be sued. Yet if you read their bill, there are all these pages and pages of exceptions. I want to clarify, for my own use, the law in Texas. It says ''does not create any liability on the part of an employer'' and then there is a period. Does the Texas law have many exceptions after that?

Mr. GRAMM. The Texas law has no exceptions after that. There are no ifs, ands, or buts in the Texas law. You cannot sue an employer. They chose not to for two reasons. One, the employer is the guy helping buy the health insurance. Why would we sue the employer? And, two, they were very much afraid that if you let people sue their employer when they are in a dispute with their HMO, and not with their employer, that the employer, who is not required to buy health insurance, might stop offering health insurance.

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:

Subject to subparagraph (B), paragraph (1)(A) 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 employment).

If they stopped right there, this would have been the equivalent of the Texas law.

When Democrats defend this bill and say we do not allow suing employers, that is generally where they stop, but their bill does not stop there. Their bill goes on to say in paragraph (B), which was already referred to previously, that:

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

Then for 7 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 always 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 point I am making is, they have seven and a half pages of conditions under which employers can be sued, including these little provisions that people reading it do not know refers back to law where the employer on employee benefits are always assumed to be in control. But the tell-tale sign comes at the end of the seven and a half pages. Here is what they do.

At the end of the seven and a half pages, they exclude physicians from being sued. They exclude hospitals from being sued, but then if you had any doubt in your mind, any question in your heart as to whether they intend to sue employers, look at the last little sentence in this seven and a half pages of ifs, ands, or buts, gobbledygook, legal reference. Let me just read it. They are talking about physicians:

(8) Rules of Construction Relating to Exclusion from Liability of Physicians, Health Care Professionals, and Hospitals.—

The heading sounds like it has nothing to do with employers, does it? But then it says:

Nothing in paragraph (6)—

And Paragraph (6) is the paragraph that says you cannot sue a physician—

and nothing in paragraph (7)—

Which is the paragraph that says you cannot sue a hospital—

shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor—

And who is the plan sponsor as required under ERISA? The plan sponsor is the employer.

or any health insurance issuer offering health insurance coverage in connection with a plan.

In other words, after seven and a half pages of conditions under which employers can be sued, including where they are deemed to be in control of employer benefits where ERISA requires they always be treated as in control, they then exempt doctors and hospitals. But just to be absolutely sure that employers were not exempt, they add the language that nothing in exempting the doctors and the hospitals would be construed as limiting the liability of the plan sponsor, which is the employer.

The plain truth is that this is 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 emergency room. 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 I have 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 HMO and who are not hired by the employer. How does the employer exert any control over this final decisionmaker, which is this external review panel? The employer can exert no control over the external review panel.

Now what our Democrat colleagues have said is, there may be some circumstance where employers could do something bad. The point is, not that there might not be an employer that tried to do something bad, but the whole bill is set up to produce checks and balances.

When the Texas Legislature decided to exempt employers, they were not assuming employers were all well intended. They were not assuming that something bad couldn't happen because of something an employer did. They simply looked at the cost and the benefits. They concluded, with all the checks and balances they had in their bill, which are in the bill before the Senate, we are pretty well protected from employers doing bad things because of internal and external review and the right to go to court. You can always sue the HMO.

They decided if you get into these provisions, as this bill does, of when you can sue the employer, that you are going to create so much uncertainty, so many unintended consequences where maybe your objective was good but you are going to create unintended consequences where an employer could be sued when they were not trying to do anything wrong, that the Texas Legislature was deathly afraid of people losing their health insurance because you are not required to provide health insurance as an employer.

So they decided, looking at the whole picture, that thanks to the checks and balances of internal and external review, the safest thing to do if you don't want people to lose their health insurance, is exempt the employer. You can say there is something to be gained 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-Kennedy bill says you can sue 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 the doctor and the hospital. You can sue the HMO. How do you fix this? 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, no modifying clauses, no seven 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 in your hometown and 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, I can't let 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, do it the way they did it in Texas. Exempt the employer. So for every small business in Arkansas, every small business in Tennessee, every Dicky Flatt, there will be things they are uncertain about in the bill, but the one thing they know 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 cost. So at a minimum, 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 could 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 reason 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. They 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 Japan, 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. But there is something bigger 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 that plan, if your doctor 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 you provide 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. If we pass a bill letting people 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? They are not going to tell you 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 that 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 they think 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, but there are a lot of Americans who may. If they lose their health insurance, the people who are blessed, such as I and every Member of the Senate is, may not lose our health insurance. But we could ultimately lose our freedom. I want to ask people to think about that as we cast this vote.

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 you want to be able to go home and 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 take 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 and 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 high 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. But we don't agree on these endless lawsuits that can destroy access to health care. What good is the right to sue a plan if I am not a member of the plan because I lost my health insurance?

If we could work out those five or six issues, we would have a bill that everybody could be for. But don't think for a minute that those 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 what Moses brought down from Mount Sinai?

Is this really the embodiment 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 over 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 of the Texas law and pass 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 brought down 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 amendment 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 other plan sponsor (or on the part of an employee of such an employer or sponsor acting within the scope of employment).''

He took the words exactly from the Texas law, which are: ''does not create any liability on the part of an employer.'' That is crystal clear. In the rest of it there are no exceptions. In the McCain-Edwards-Kennedy bill, there is page after page of exceptions.

I am very glad this amendment is being considered in this Chamber today because we have an opportunity—through this afternoon, and tomorrow, and the next day—for our colleagues to go back and actually read the bill. We can debate in this Chamber and on the television shows and we can read in the newspapers about the question of whether or not you can sue an employer. Now I believe it is crystal clear, after the debate, that you can sue employers under the Kennedy bill. Therefore, all the employers of the 170 million people in this country who voluntarily receive their insurance through their employers—that is just about everybody in the gallery and those watching on C–SPAN and everyone else who does not have Medicare or Medicaid—can be sued under the McCain-Edwards-Kennedy bill.

When you go around the water fountain on Monday—or if you are working on the weekend, or have a shift later tonight—turn to your employer and say: Do you mean to say, if this McCain-Edwards-Kennedy bill passes, you can be sued for voluntarily providing health insurance? This applies to unions as well. I want to talk about that because that is actually addressed, and the Senator from Texas did not mention it. All the union members should listen to this.

You cannot right now. You cannot under the proposal of the Senator from Texas. You cannot under the Frist-Breaux-Jeffords plan. Under the McCain-Edwards-Kennedy plan, you can be sued. If this bill were passed tomorrow, your employer could be sued the next day.

I hope those 170 million people are listening and do pay attention to this amendment. Again, the Gramm amendment says: This bill ''does not create any liability on the part of an employer. . . .''

Let me show, first, what the Texas law is. This is an actual picture of the page itself. It says:

This chapter does not create any liability on the part of an employer—

Do those words sound familiar? They should. What I am showing you is a blown up picture of the law Texas passed in 1997 that has been very successful. Again, this is from the State of our current President of the United States, who, as Governor, signed this law. The words: ''does not create any liability on the part of an employer''—if that sounds familiar, it should, because those are the exacts words that are in the Gramm 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 me, many of the arguments. 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 Senator 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 around a 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 on, say, 90 percent 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 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 what they have told me about 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 and external 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 money out 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 opportunity 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 be sued. If we can be sued, we ought to be able to sue everybody.

I am not sure that is the correct answer. Several of my colleagues and I sent a letter to the medical profession asking, what if we reform the overall system, have tort reform on 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.

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 KENNEDY 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 submitted last Thursday there is the exclusion that the Senator from Texas just explained. You can sue the plan and you can sue an agent of the plan, but you can't sue the treating doctor. That little loophole was closed.

Also in this new McCain-Edwards-Kennedy bill from last Thursday, unlike the bill from last Wednesday and the one from months before, it appeared you can not sue the hospital. The trial lawyer must be sitting back: I could sue everybody before. Now I can't sue the doctor or the hospital. Now whom can I go after? The HMO, which is appropriate. I can go after an agent of the HMO. Is that the clerk, is that the secretary who called to arrange the plan? I am not sure. We have to look at that loophole. There is a huge loophole right now that the trial lawyer can examine.

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 rewritten and taken out of the bill introduced last Thursday. You cannot sue the hospital because that was taken out of the bill last Thursday. You have 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 a trial lawyer worth your salt, 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 have not done is 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 means that employers are going 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 employees by paying for part of 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 employees 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 cannot sue employers. Your colleague, your good friend who favors the McCain-Edwards-Kennedy bill, says very specifically you cannot sue employers. It is confusing to everybody in this room.

I know 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.

What 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 would like to enter into the RECORD shortly, but first let me quote from, a letter sent to the Honorable TOM DASCHLE, our majority leader, and to the Honorable TRENT LOTT, minority leader, dated June 15, 2001. I will quote from the letter just what their interpretation is on this whole issue of employers. 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 employer.

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:

JUNE 15, 2001.

Hon. THOMAS DASCHLE,
Majority 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 these reasons, we 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 ways in state and federal courts. Finally, lawsuits could be filed against employers before an independent external review is completed. If faced with such liability, many employers—especially small employers—will have no choice but to stop offering coverage altogether.

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 13 percent—the seventh annual increase in a row. Health care costs for many small employers are even higher, up more than 20 percent. The Kennedy-McCain bill will make health care coverage even more expensive. The Congressional Budget Office found 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 afford coverage now.

More than 172 million 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 slowing 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 Marketing 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 Rubber 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 Wholesalers 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-Edwards-Kennedy Patients' Bill of Rights in the first paragraph. They are talking about skyrocketing health costs.

Employers are not protected from liability under the McCain-Edwards-Kennedy bill, and lawsuits are allowed in both State and Federal courts for the same incident under different causes of action. 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 the associations 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 the Democratic bill and our 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-Edwards-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 their 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 Patients' Bill of Rights [referencing the Texas bill]. Our bill is almost identical to Texas law.''

''Our bill,'' meaning the McCain-Edwards-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 we 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 to come on board or there is incongruity to the argument. Well, it is incongruous because the assumption that McCain-Edwards-Kennedy is consistent with Texas law is totally false. The McCain-Edwards-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 an employer, and there are no exceptions. That is the No. 1 difference. S. 1052, the McCain-Edwards-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 nonmedically 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 for can be broken down into two categories. One is treatment decisions and the other is coverage decisions. The McCain-Edwards-Kennedy bill applies to both treatment decisions as well as coverage decisions. Texas law has a much narrower scope. Texas 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 and our bill is like the Texas bill, 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-Edwards-Kennedy bill involves 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 are the 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? If they say 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

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. But 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 employers are 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 their 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 open-ended 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 in 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.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BILLY ROGERS PLGB, HTG, & 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 $55,000.00.

Our Company pays approximately 80% of the total cost of the annual premiums. Our Company, this year, experienced an increase of approximately 35% in 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 would probably happen is that we would raise our employees' salaries enough to cover their medical coverage at our current rate, and they would purchase coverage personally (if they could). Such wage increases would, of course, be taxable, so they would have even less to pay for a plan.

The situation is already a most serious one, and if any more burdens are placed on the backs of small businesses for medical costs than currently exist, I believe the rolls of the non-insured will swell beyond belief. Your efforts in doing anything to not only improve the situation, but also to prevent any future changes that would have a burdensome effect would be greatly appreciated.

Sincerely yours,
JOHN W. DILLARD, Jr.,
President.

HERNDON & MERRY, INC.,
Nashville, TN, June 7, 2001.

Senator BILL FRIST,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: My letter today is to share with you my concerns about the potential of a ''Patients' Bill of Rights'' coming out of a newly Democratic controlled senate.

Our company has been in business for 42 years and over that time we have been able to provide, at differing levels, health care coverage to our employees. This experience gives me some footing to address this issue. We currently have 22 employees and most of these participate in our insurance program of which the corporation pays 85%. In past years we paid 100% of the premium and paid for family coverage. However, due to cost increases that in some years were 30 to 40% we were unable to continue to either absorb this cost or to pass it on in price increases to our customers. So, we scaled back coverage and required employees to pay a portion of the premium. The real question is why such dramatic increase in the first place? I think the answer is painfully clear-government meddling. The more government meddles in the free market, no matter what kind of market, the greater the cost. Just ask Californians what government price controls have done for the availability and the REAL cost of power. While all of the increase in the cost of health care cannot be laid at the feet of both state and federal mandates, it is surely at the root of those increases. The proof lies in how both the federal government and the state of Tennessee exempt themselves from most of the mandates because they know how expensive they really are.

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 reintroduce Hilliary care and come to the ''rescue''

Your Friend,
BILL MERRY, Jr.

Mr. FRIST. The first one is from Billy 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. . . .

Our Company pays approximately 80 percent of the total cost of the annual premiums. . . .

I strongly believe that our Company will have to pass on tremendous increases to our employees or even drop our program altogether. Please do whatever is necessary to see that this Bill does not pass.

The second letter is from John Dillard, who is president of Dillard Door, a door speciality company in Memphis, TN:

DEAR SENATOR FRIST: 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 would probably happen is that we would raise our employees' salaries enough to cover the medical coverage at our current rate, and they would purchase coverage personally (if they could). Such wage increases would, of course, be taxable, so they would have even less to pay for a plan.

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.

Which is the predecessor Kennedy bill.

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 this is exactly what Senator Kennedy and those on the left would like. Then they can reintroduce Hillary care and come to the ''rescue.''

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:

THE WHITE HOUSE,
Washington, June 22, 2001.

DEAR MR. LEADER: Thank you for your inquiry regarding the Texas Patients' Bill of Rights. Numerous questions have been raised about the substance of that legislation. I am 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 Governor and currently serve as Assistant to the President for Domestic Policy. I would be delighted to provide any additional information that would be helpful to Congress during this important debate.

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. Throughout 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 ensuring 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 be drawn narrowly to ensure that they do not cause large increases in premiums or raise the number of uninsured.

When, in 1995, the Texas Legislature sent Governor Bush a Patients' Bill of Rights 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 most 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, roughly, Texas law. We strongly disagree.

S. 1052 departs fundamentally 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, and would threaten to upset the careful safeguards imposed by the Texas legislature regarding employer protections and caps on liability.

Preempting Texas Patient Protections

The bill sponsored by Senators McCain, Kennedy and Edwards, far from protecting good state laws like those in Texas, threatens to override them by imposing a preemption standard that gives virtually no deference to states. The bill does not allow states to apply their own strong patient protections even when the protections they offer are consistent with federal law. Rather, S. 1052 would require that each state requirement be ''at least substantially equivalent to and as effective as'' each federal requirement, without requiring the Department of Health and Human Services to give deference to the need for flexibility or the state's determination that its standards best protect its citizens. We believe that this provision in S. 1052 would give the federal government too much latitude to override state law and undo the good work of states like Texas.

Cause of Action

Another key difference between Texas law and S. 1052 relates to the breadth of the cause of action. The legislation enacted in Texas created a narrow cause of action against HMOs for any wrongful ''health care treatment decision,'' defined by the Texas legislature as ''a determination made when medical services are actually provided by the health care plan and a decision which affects the quality of the diagnosis, care, or treatment provided to the plan's insureds or enrollees.'' Tex. Civ. Prac. & Rem. Code §88.001. This language has been interpreted to apply only to claims alleging wrongful delivery of medical care, as opposed to decisions by an HMO regarding benefit determinations. As the United States Court of Appeals for the Fifth Circuit stated last year, the Texas liability provisions: ''impose liability for a limited universe of events. The provisions do not encompass claims based on a managed care entity's denial of coverage for a medical service recommended by the treating physician: that dispute is one over coverage, specifically excluded by the Act. Rather, the Act would allow suit for claims that a treating physician was negligent in delivering medical services, and it imposes vicarious liability on managed care entities for that negligence.'' Corporate Health Inc., Inc. v. Tex. Dept. of Ins., 215 F.3d 526, 534 (5th Cir. 2000).

Unlike the narrow cause of action provided in Texas, S. 1052 allows expansive causes of action in both state and federal court. Under S. 1052, state courts would consider sweeping lawsuits related to denials of claims for benefits, while federal courts would hear cases related to violations of administrative duties under the plan. Neither cause of action is currently available in Texas state court. And, as drafted, both are excessively broad and would invite frequent and costly litigation.

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. The Texas statute clearly states: ''This chapter does not create any liability on the part of an employer.'' Tex. Civ. Prac. & Rem. Code §88.002(e). This protection was considered essential, by the Texas legislature and by Governor Bush, to ensuring that the new liability provisions did not create an incentive for employers to drop health coverage altogether.

Conversely, S. 1052 invites frequent litigation against employers by subjecting them to liability under a vague ''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.

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 two times economic damages plus non-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 the excessively 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 physicians in many cases, would be subject to the various state medical malpractice caps.

Finally, Texas law discourages patients from bringing 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. Tex. Civ. Prac. & Rem. Code §88.002. S. 1052 has no procedural requirements to ensure that patients bring only medically meritorious claims to court. Indeed, that legislation would allow a patient to bring suit even if a panel of independent medical experts concludes that his claim is meritless.

Summary

Supporters of S. 1052 have made much of the fact that few lawsuits have been filed under the Texas Patients' Bill of Rights. We believe that this fact is attributable to the emphasis in Texas on quality of care and strong independent review, the careful drafting of the Texas liability provisions, the protections provided to employers, the exhaustion requirement, and the imposition of caps and other limitations to discourage frivolous suits. We strongly believe that the success in Texas will not be mirrored on the federal level unless substantial changes are made to the liability provisions of S. 1052.

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 for Domestic Policy.

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 under a vague ''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 respect to the Patients' Bill of Rights. 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: Well, now, if you call a tail a leg, how many legs would a cow have?

Douglas said: Five.

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 new 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 large 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 a patient has 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. I 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 cancer and had to fight his managed care organization at the same time. That is not a fair fight. This young boy, according to his mother who testified at a hearing I chaired, waged a courageous fight against cancer but didn't get the care he needed or the treatment he needed to give him a shot at beating his cancer. He looked up from his bed and asked his mother: ''Mom, how can they do this to a kid?'' He died on his 16th birthday.

It shouldn't happen. It need not happen. 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 discussions about Dicky Flatt. It is interesting to hear letters from people who say if employees are allowed to sue employers, they will no longer have health care. The fact is, this legislation will not allow employees to sue employers. It is a classic opportunity 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. When it comes time to answer the question of who they stand with, these 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 misrepresent what 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 by 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 floor of the Senate 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: Yep, 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 Precluded.

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 in this bill. 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 872 and did not have that fix. We fixed it for doctors and some hospitals. Now we have a new 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 your employees with healthcare, 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 are those? 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 hundreds of millions of dollars? If you 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 though you might tell them every 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 provide this benefit. 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 do you lose health care and your health care costs go up, but you may lose your company. The employees may lose their jobs.

That could easily happen under this bill.

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—including plan determinations, reporting, enrolling people, choosing plans, maybe an optional plan, and so on—tell me they do not do more than what the exemptions are here. They are not complying with the law.

This list is written basically 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.

I urge people and employers, if you are concerned about this bill, please contact Members of the Senate because we will be voting on this amendment sometime Tuesday. There is a chance that we can fix employer liability once and for all—very clean, no exemptions, no exceptions.

There is one other comment I wanted to make. I heard our colleague, the junior Senator from Missouri, say,

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 know if Senators are aware, 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 different States 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 a bureaucrat over at the offices of the Health Care Finance Administration, HCFA. They will determine whether or not State law which was probably negotiated with the State legislature and with the Governor, or maybe the State insurance commissioner, possibly with a lot of input from the participants, beneficiaries, plans, possibly with years of experience—hey, in this plan, does this benefit work? Is this excessive in cost? Is it overutilized or underutilized? They have experience. They determine if they can afford this patient protection or they can't. They made modifications. We say we don't care what your case history is, or what your State history is. We are going to replace your patient protections with one that Senator KENNEDY, Senator MCCAIN, and Senator EDWARDS have decided is in your best interests.

I negotiated with Senator KENNEDY on patient protections last year. But I refused to go along with saying that what we have done is better than what the States have done. I don't think that these protections should supersede what the States have done.

That is what we are doing in this bill. This language says you have to have substantially equivalent patient protections that are at least as effective as what we have. Nobody knows how effective these are. These are not law. They have never been tried. They have never been tested. They have never been analyzed. 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 in 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 covers all Americans. 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. Some people say you can't sue your HMO. But you can sue to get a covered benefit.

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 think you are rightly 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 with all of these patient protections that we are saying are so magnificent. 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 do not 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 that applies these patient protections 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.

So 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 Medicare. They do not apply to Medicaid, to low-income people. So when my colleagues say we want these to apply to all Americans, they have not read their bill.

Guess what. 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 do not want to be 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 you 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 bill, 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 for 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 scope 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 passed a real 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. STEVENS). 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. These individuals lack even 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 fail to 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 additional costs of this Patients' 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 will increase health care premiums by 4.2 percent.

I think Americans need to know more about this matter. Further, more than 1 million people will lose their health care coverage because of this pending bill. Who is going to protect their right to even be a patient? Who will ensure that they will even have access to a doctor? How are they going to have direct access to a hospital or, for that matter, an emergency room? What new rights will 1 million newly uninsured individuals have in this country?

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 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 $7,000, 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, the Federal Government 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 gone the extra mile to offer health care benefits, dragged into court.

Under the McCain-Kennedy bill, an employer could be subjected to unlimited economic damages, unlimited noneconomic damages, and up to $5 million in punitive damages.

I have served in this body for a little over 20 years. During that time, I have worked to strengthen and support America's small businesses.

I firmly believe that small businesses are the backbone of our economy and represent the ideals that form this great Nation. Those are the folks who take the real risks. The individuals who start a small business are the risk takers. Obviously, it is a very tough process. They have to be the bookkeeper, the timekeeper. They have to be the first aid master. Anything imaginable you have to do yourself in a small business. You don't have a clinic to go to. You don't have all the assets that a large corporation has almost within house.

That any American could work hard, open a business, create hope and opportunity for their families is what small businesses are all about. When they succeed, of course, they hire employees and eventually offer health care benefits. We should not punish them just because they offer these benefits.

The bottom line effect of this legislation is to force employers to either drastically rewrite their health insurance plans or drop coverage altogether. Whose rights are served then?

While McCain-Kennedy may claim to have a copyright on the so-called Patients' Bill of Rights, I think nothing could be further from the truth. Rather, I think we must all understand that the Frist-Breaux package contains comprehensive patient protections, all without threatening employers. These include:

Guaranteed access to emergency care: As such, a patient can go to the nearest hospital emergency room regardless of whether the emergency room is in their health care plan network or not;

Direct access to OB/GYN care: If OB/GYN care is offered, women can directly access that care;

Direct access to pediatricians: All Americans can choose a pediatrician as their child's primary care doctor;

Access to valuable and beneficial prescription drugs: Physicians and pharmacists will work to develop appropriate drug formulas;

Timely access to specialty care: If a plan lacks a specialist, the patient can go outside the network for no additional cost.

What better protections and rights than access to quality care? Quality care that the more than a million newly uninsured individuals will never, ever receive?

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, Mr. Steven Griles, that deserves some examination by this body.

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 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 organizing 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 on 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 because of 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 body. Energy is not even on the calendar.

It is my understanding, after the Patients' Bill of Rights, we will probably go to a supplemental. We may have the minimum wage, any number of things. Energy is not on the list.

I can only allude to what I assume is a political evaluation that somehow the Democrats are better off not working in a bipartisan manner to address the corrections that are going to be needed to bring about relief from this energy crisis but would rather object to any action being taken as they blame our President and his association with the energy industry as the cause of some of the problems associated with energy in this country.

When you think about it, you might say the Democrats are waging a war against the prosperity and freedoms associated with the character of this country.

The character of this country, to a large degree, is directly associated with a standard of living. That standard of living is based on affordable energy and a plentiful supply. Energy really powers our Nation's freedom, our national security. It gives us the flexibility to live our lives as we choose, to pursue our hopes and our goals. Energy powers the workplace, moves the economy, moving it forward and bringing all of us along with it.

As we know, as evidenced by the polls, the energy supply and price of energy are all part of the energy crisis in this country. Supplies are threatened, costs are rising, and the resulting crisis is undermining our economy.

When an issue of this magnitude touches so many families in so many ways, Congress simply must act. We must do what we can to help provide solutions to the crisis. But now with the change of leadership, what we seem to have on the other side is a lack of interest in even including energy on the agenda. We have asked the Democratic leadership time and time again to schedule on the calendar time so we can debate the comprehensive energy bills that have been introduced. These bills are pending in the Committee on Energy and Natural Resources, where I am now the ranking member. But the reality is we can't seem to move or get any time agreement or any priority in this body.

It is amazing that the emphasis seems to be blaming our President—a President who has proposed a methodology to fix it. He has developed from his energy task force report specific recommendations. One of the more interesting things is the manner in which some in the media are coming to the general assumption that there really isn't a shortage at all, and that this is something that has been trumped up by the oil industry, big oil, with the knowledge and support of the President.

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

This is America's energy crisis today. It starts with our increased dependence on foreign oil. We are importing 56 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 $4, $5, $6. It has quadrupled. We are looking for electric energy from the resource of gas. So that has changed.

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 nuclear.

We are concerned about air quality and emissions and we are concerned about Kyoto, global warming, climate

change. What particular source of energy contributes more relief and does not emit any emissions of any consequence? Nuclear energy. The nuclear industry contributes 22 percent of the power generated in this country. We haven't done a thing in that area.

When we talk about gasoline prices, why are they so high? Obviously, it is the law of supply and demand. Even Congress can't change that. We haven't built a new refinery in 25 years. The last new one was built in my State of Alaska. The demand is up and we have more people driving.

An interesting thing to notice, while we have other sources of energy for power generation, is that America moves on oil. I wish we had another alternative, but we don't. Our ships, our trains, trucks, cars, airplanes—we don't fly in and out of Washington, DC, on hot air. Somebody has to drill the oil and refine it and transport it and put it in the airplanes, and so forth.

My point is clear. We don't have any other alternative for energy to move America, other than oil at this time. 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 kind of come together 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 everything, 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. America's No. 1 priority 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 affordable supplies of energy. Our standard of living, to a large degree, is dependent 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 affordable energy, alternative energy.

A lot of people say, well, conservation is the answer. Conservation is important. 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 renewable. 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 partisan 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, figuring 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 proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

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

SURVIVOR'S TALMUD DEDICATION CEREMONY

Mr. WARNER. Mr. President, I rise 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 memorializes a remarkable chapter in Army history that occurred after Word War II.

The event was the dedication 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 resourcefulness 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 splendidness 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. Gunhus, Chief of Chaplains, U.S. Army; and Remarks 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 during the ceremony.

As this magnificent exhibit tours throughout the country, I hope it will instill in younger generations the critical 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 remain alert to prevent a reoccurrence in the future.

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

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

REMARKS OF RABBI DR. ISRAEL ZOBERMAN

Mekor Hachaim, Source of All Life, Our God, Goodness' Guide, Dear and Distinguished Friends and Guests:

We have gathered on a momentous occasion at this enchanting setting of the Chrysler Museum of Art, dedicated to civilization's creative celebration of life, mindful that our Norfolk and Hampton Roads are home to the military might for sacred freedom's sake of the world's sole superpower, allowing the human enterprise to flourish into a blessing. Here from whence our heroic sons and daughters sailed to brave history's harshest 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 creation 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 awed, son of Polish Holocaust survivors who spent from 1947 to 1949 with my family in the Displaced Persons Camp of Wetzlar at Frankfurt, benefiting from a much appreciated reassuring 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, to save the Jewish soul, was an act of enduring love we shall always cherish. We knew that our miraculous physical perseverance was ultimately rooted in preserving our unique spiritual heritage that was Hitler'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 by special friends the blessed memory of beloved Leonard Strelitz with acquiring a full 19 volume edition of that legendary Babylonian Talmud publication is most appropriate indeed, along with this being the beginning of the traveling treasured exhibit sponsored by the American Jewish Historical Society. Leonard's towering stature propelled him to rise to new heights of commitment, caring and compassion. A great American, the prophetic vision was fulfilled in him with both the lion and lamb dwelling in his big heart of a true leader with commanding presence. He singularly served the surviving remnant of his Jewish people as a tough lion, national chairman of the United Jewish Appeal aiding the embattled State of Israel, as well as a tender lamb in support of all worthy causes with the crown jewel of the Leonard R. Strelitz Diabetes 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 intertwined with out tradition's best impulse and the noblest in our nation's character, shining testimony to his 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 Community Relations Council of the United Jewish Federation of Tidewater. He was born in Kazakhstan in 1945.]

SPEECH AND BENEDICTION BY MAJOR GENERAL GAYLORD T. GUNHUS

On behalf of the United States Army, it is with great pleasure that I accept this plaque. Thank you for this symbol, of your gracious 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 today.

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

This Great War of liberation against the forces of totalitarianism, posed for the entire world, then and now, an open question. Can mankind find the goodness within the soul to defend against the impulses of tyranny and hatred? This is a question we must answer daily for ourselves, and for the sake of our children, the heirs of the future.

It is with great pride in the values, which our nation represents, that I stand here today. This pride, which we share in common, is tempered by the knowledge of the sacrifice and courage of those, who in times past, gave their lives for our fondest hopes of liberty.

We know that a free nation must rise above the simple pride bestowed by victory in war. A free nation, if it desires to be great, must be the servant of freedom and the defender of dignity for every man and woman. The Army of our nation in post war Europe, was then, and is 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 forces, is the result of many individuals labor 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.

For me, this event signifies 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 witness this exhibit and read the history that helped bring back the light to those that may otherwise have lost hope. May the words of the Scriptures ever be heard, ''Hear O Israel: The Lord our God, the Lord is one.''

On behalf of (Army Chief of Staff) General (Eric) Shinseki, and all the members of the Army, past and present, thank you for your gift of gratitude and this symbol of appreciation.

BENEDICTION

As we conclude today's ceremony honoring the many participants including the 3rd U.S. Army for bringing the light of the Torah to the victims of persecution, we are ever grateful, as Americans and men and women of faith, for the blessings of freedom and privilege of living in this great land. We ask, Lord, that you watch and protect our brave soldiers who stand guard over the nation throughout the world.

May this magnificent Army Talmud Exhibit serve as a poignant reminder that Your Word, is the ''tree of life for those who grasp it, and all who upheld it are blessed. Its ways are pleasantness and all its paths are peace.'' 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 are awake it will talk with you. For these commands are a lamp, this teaching a light.''

Let us, as people of God, work together to build a world free from intolerance and prejudice. All this we ask in Your name. Amen.

EXCERPTS FROM REMARKS OF WALTER SEGALOFF

Good Evening everyone. I am Walter Segaloff and I want to thank you for joining us for this very historic occasion.

This evening is special for two reasons—

First, we deal with a forgotten chapter in our history, that is ''The Story of the Jewish—Displaced Persons—From 1945 thru 1949''—and the unique part that the United States Army played in that tragedy.

Secondly, we honor Leonard Strelitz through the dedication of the Army Talmud Exhibit to him. Many of us knew Leonard as ''our leader'' or affectionately as ''the Don of the Southern Mafia.'' He was the one who energized so many of us, the one who solicited us, and by way of example through his and his brother Buddy's and their family's extraordinary level of giving set an example that we willingly and in many cases ''unwillingly'' followed. Most of the time we felt better about our giving, we felt prouder, for we knew we were making vital contributions to the birth of a nation and the gathering in of the remnants of the Holocaust—the displaced persons of Europe.

I would like to recognize a number of people who are in the audience tonight for this occasion:

TRADOC Chief of Chaplains, COL Douglas McLeroy and his wife, Dana;

Dr. William Hennessey, Director of the Chrysler Museum of Art in Norfolk;

Dr. Michael Feldberg, Director of the American Jewish Historical Society in New York City;

Dr. Arthur Kaplan, chairman, of the Tidewater Jewish Foundation and his wife Phyllis;

Philip S. Rovner, Executive Director of the Tidewater Jewish Federation;

Ms. Annabel Sacks, President United Jewish Federation of Tidewater;

Mark Goldstein, Executive Vice President of the United Jewish Federation of Tidewater;

Rabbi Michael Panitz of Temple Israel who prepared a pamphlet on the Talmud that is available at the exhibit;

Joel R. Rubin, President, Rubin Cawley and Associates;

U.S. Senator John Warner.

We are privileged to have with us a truly unique group of people who honor us with their presence—Local Holocaust Survivors:

Esther Goldman;

Alfred Dreyfus;

David and Brinia Hendler;

David Katz;

Bronia Drucker;

Hanns Loewenbach;

Kitty and Abbott Saks;

Aron Weintraub who lived in a DP camp after World War II in Germany.

Tonight the Jewish Community in Hampton Roads Virginia representing Jewish people everywhere is pleased to dedicate an exhibit commemorating the decision by the United States Army 54 years ago. in post war Germany to print complete sets of the Babylonian Talmud for the survivors of the Holocaust.

It was a remarkable humanitarian gesture and was evidence of the great spirit of our nation and its kindness to people who have been beset by human tragedy that defied comparison or imagination.

Later in the program you will hear from Marvin Simon how this exhibit and program came about.

In preparing this exhibit, Dr. Michael Feldberg from the American Jewish Historical Society expressed his enthusiasm for the project and noted: ''. . . I understand that Leonard's Hebrew name is R–YEA (aryon), which means lion, and that his family name Strelitz in Russian means steel. We would all agree Leonard was truly a man with a lion's heart and a will of steel. His leadership and personal example inspired countless others throughout the country—through them—through us—his work continues to this day. . . .''

A brief overview of the primary reason we are here tonight which is to thank the U.S. Army for their role . . . During these historic times.

During 1945 and 1946, American Jewish organizations such as ORT and the Joint Distribution Committee lobbied to improve the Jewish DP's living conditions. At their urging, President Harry S. Truman appointed the Harrison Commission to investigate the treatment of Jewish DP's. The commission reported, ''As matters now stand, we appear to be treating the Jews as the Nazis treated them except we do not exterminate them. They are in concentration camps in large numbers under our military guard instead of S.S. troops. One is led to wonder whether the German people, seeing this, are not supposing that we are following or at least condoning Nazi policy.''

Truman ordered General Dwight D. Eisenhower, commander of U.S. forces in Europe, to ''get these people out of camps and into decent housing until they can be repatriated or evacuated . . . I know you will agree with me that we have a particular responsibility toward these victims of persecution and tyranny who are in our zone . . . We have no better opportunity to demonstrate this than by the manner in which we ourselves actually treat 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 McNarnary 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 of the Holocaust.''

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 without one.

The difference could be remedied by a political decision beyond the Army's capability. But in the meantime, the Army would declare, in effect, that Palestine had to be recognized someday as the DP's homeland. Thus, the most important military arm of the United States was accepting the basic premises of the Zionist movement. How remarkable!

I quote from part of Rabbi Herbert Friedman's book ''Roots of the Future''.

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?''

About two months later, 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 the clear and undisputed leader of the Jewish population of Palestine (about 600,000 at that time) and the leader of world Jewry's thrust toward a sovereign state. He was a fighter—the small, cocky, bantam rooster—the charismatic, world famous symbol of the Zionist force.

For the occasion, we utilized the camp's largest stable, 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 that it seemed 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 had forgotten them.

For the first time, there were smiles inside the gates of Babenhausen, and then came the inevitable question—poignant, pleading, uncertain, wavering, 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 only tell 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 were fierce in their ethnicity; 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 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 who was the lead benefactor of this project—the man who made tonight possible. He has worked closely with the American Jewish Historical Society to make sure the exhibit tells the story, both of the Survivor's Talmud and of Leonard Strelitz. Please welcome Marvin Simon.

INTRODUCTION OF SPONSORS BY MARVIN SIMON

Please welcome our guest Senator Chuck Robb—a friend of many of you—a long time proven friend of Israel and 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.

Mr. Truscott, 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, then made a name for 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 STRELITZ

It is my pleasure now to bring you someone who needs no introduction to this audience. Joyce Strelitz. Tonight the benefactors would like to thank the following for tonight would not have been possible without their invaluable participation, work 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 Foundation;

And last Philip Rover, Executive Director of the Tidewater Jewish Foundation 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, Beth Jacobsen, and Ellen Anitai and the rest of your staff.

U.S. SENATE,
Washington, DC, May 22, 2001.

To the Special Participants and Guests of the Survivors' Talmud Dedication Ceremony and members of the Strelitz 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 to vote, so 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 and it is in honor of a great man, Leonard Strelitz.

In a war ravaged Europe, Army soldiers managed to gather scarce resources, that ''officially'' did not exist, in order to publish the Talmud. By the end of 1948, 100 copies had been published and a brave people had renewed hope for their future.

That is the historic past; now we look to the future. The citizens of this community have joined in this commemorative event to preserve a unique chapter of history for future generations to more fully understand the sacrifices, losses, and the courage of the World War II generation.

With great humility I mention that I was a young sailor in the closing months of World War II, and today, I experience stunning disbelief of how few of this generation have any remembrance of that period of history. Future generations must always remain alert to prevent abuses of human rights, individual dignity, and freedom. I thank those present tonight for their vigilance and recognition of the initiatives of the citizen soldiers of World War II.

With kind regards, I am

Sincerely,

JOHN WARNER.

QUESTIONS ON CONCEALED WEAPONS LAW

Mr. LEVIN. Mr. President, last Wednesday the Michigan Supreme Court heard oral arguments on whether or not the State should allow a new concealed weapon law to go into effect without being put before the voters in a referendum. I oppose the law because it would undermine the authority of local gun boards and explode the number of concealed weapons on Michigan's streets. As the Justices deliberate this issue, recent press reports have raised a number of disturbing questions about the law.

For example, how will the corner drug store deal with a suspected shoplifter knowing that every person could be legally armed? Will emergency rooms and board rooms be filled with armed citizens? If so, what will that mean for public safety? Think about it. One Michigan employment expert perhaps described it best: ''How many times have people seen others react to situations or stress in the workplace, or react to a situation and think, if they had a gun?''

A recent article from the Oakland Press in Michigan refers to a bumper 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 victim 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:

1. Michael Obel-Omia.
2. Matthew & Miriam Gannon.
3. Betsy & Danny Nally.
4. Greg Zaff.
5. Dr. Stephan Ross.
6. Jane Alexander.
7. Ira Kittrell.
8. Reverend Ross Lilley.
9. Peter Needham.
10. John Burke.
11. Mark Friedman.
12. Deb Berman.
13. Rick Hobish.
14. Anna Ling Pierce.
15. Matthew Kinel.
16. Officer Bill Baxter.
17. Gene Guinasso.
18. Rocky Nelson.
19. Monsignor Thomas McDonnell.
20. Marianne Moran.
21. Ron Adams.
22. Robin & Caitlin Phelan.
23. Janet Lopez.
24. Sergeant Tavares.
25. George Greenidge, Jr.
26. Maria Contreras.
27. Lieutenant Paul Anastasia.
28. David Waters.
29. Barbara Whelan.
30. Judge Reginald Lindsay.
31. Dennis Fekay.
32. Sarah-Ann Shaw.
33. John Engdahl.
34. Anne Carrabino.
35. Deborah Re.
36. Officer Scott Provost.
37. John Iovieno.
38. Dan Doyle.
39. John Rosenthal.
40. Pam Fernandes.
41. Al Whaley.
42. Matthew Pohl.
43. Anna Faith Jones.
44. Billy Starr.
45. Jetta 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 which 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.

(The nominations received today are 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. Hays, 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:

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; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2581. A communication from the Acting Assistant General Counsel for Regulations, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priority: American Indian and Alaska Native Education Research Grant Program'' received on June 20, 2001; to the Committee on Indian Affairs.

EC–2582. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Solicitation for Proposals: To Promote the Use of Market Based Mechanisms to Address Environmental Issues'' received on June 21, 2001; to the Committee on Environment and Public Works.

EC–2583. A communication from the Chief Executive Officer of the Federal Loan Bank of Chicago, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls for 2000; to the Committee on Governmental Affairs.

EC–2584. A communication from the Clerk of the United States Court of Federal Claims, transmitting, the Report of the Review Panal relative to S. Res. 129, 105th Congress., 1st Session referred S. 1168; to the Committee on the Judiciary.

EC–2585. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance on Filing an Application for a Tentative Carryback Adjustment in a Consolidated Return Context'' (RIN1545–AY58) received on June 21, 2001; to the Committee on Finance.

EC–2586. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Special Aggregate Stock Ownership Rules'' (RIN1545–AY80) received on June 18, 2001; to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–111. A resolution adopted by the Board of Director of the Colorado River Water Users Association relative to the nomination for the position of Assistant Secretary of Fish, Wildlife and Parks, Department of the Interior; to the Committee on Environment and Public Works.

POM–112. A petition presented by the Council on Administrative Rights entitled ''Full Circle''; to the Committee on Environment and Public Works.

POM–113. A petition presented by the State of Maryland General Assembly relative to Senate Bill 85; to the Committee on the Judiciary.

POM–114. A petition presented by a Member of the General Assembly of the State of Missouri relative to energy; to the Committee on Energy and Natural Resources.

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, prescription drugs provide essential treatment to all our citizens in this country; and

Whereas, retail expenditures on prescription drugs in most states have 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 due to 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 federal 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 10% of primary care physicians across the nation routinely screen for partner abuse when a patient is not currently injured; and

Whereas, The General Assembly recognized the importance of screening patients for symptoms of domestic violence in enacting Act 115 of 1998, which established the Domestic Health Care Response Program; and

Whereas, Act 115 of 1998 made Pennsylvania the first state in the nation to establish patient screening and advocacy programs in hospitals and health care systems; and

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

Whereas, A team from Pennyslvania 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 causes, 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 problem facing the Commonwealth of Pennsylvania today is polluted water draining from abandoned coal mines; and

Whereas, More than half 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 to take care of pollution and safety problems caused by old coal mines; and

Whereas, Pennsylvania is the fourth largest coal-producing state in the nation, and coal operators contribute significantly 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 lands 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, the National Association of Abandoned Mine Land Programs and other states 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

Protection Agency and the Congress have not agreed to make more funds available to states for abandoned mine reclamation; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the President and Congress of the United States to make the $1.5 billion of Federal moneys already earmarked for abandoned mine land reclamation 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 Restoration Act of 2000; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 167

Whereas, the estuaries and coastal wetlands are vital to the ecological, cultural, and economic well-being of the state of Louisiana 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 resources if they are to survive; and

Whereas, the state of Louisiana, in cooperation with its federal and local partners, has developed the Coast 2050 plan which provides a blueprint for restoring its coast; 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 currently 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 Restoration Act of 2000; and be it further

Resolved that a copy 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–119. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to the Gulf Hypoxia Action 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. 47 of the 2000 Regular Session, the Louisiana Legislature expressed its concern about the hypoxic zone in the Gulf of Mexico, its biological and economic impacts, and the risk that it poses to the ecology, economy, and culture and way of life of Louisiana; and

Whereas, House Concurrent Resolution No. 47 memorialized the Gulf of Mexico/Mississippi River Watershed Nutrient Task Force to find timely, effective, and workable solutions to the hypoxia problem; and

Whereas, the task force, composed of representatives from key federal agencies and states along the Mississippi River, has reached consensus on an Action Plan for Controlling, Mitigating, and Reducing Gulf Hypoxia; and

Whereas, the Action Plan provides for incentive-based, voluntary actions for nonpoint sources of nitrogen loading into the river, and for enforcement of existing laws and regulations for point sources throughout the watershed, as well as expanded monitoring and research into the Gulf hypoxia issue; and

Whereas, in addition to the restoration and protection of the waters of the Gulf of Mexico and the states and tribal lands within the Mississippi River Watershed, the Action Plan seeks to improve the quality of life and economic conditions for communities across the watershed; and

Whereas, implementation of the Action Plan will not only protect the health and productivity of Louisiana's Gulf fisheries, but will also aid other important goals of the state, including coastal restoration and farm support: Therefore, be it

Resolved that the Legislature of Louisiana does hereby urge and request the President of the United States and memorialize the Congress of the United States to fully implement the Gulf Hypoxia Action Plan in cooperation with the Gulf of Mexico/Mississippi River Watershed Nutrient Task Force; and be it further

Resolved that a copy of this Resolution be transmitted to the White House and to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each of the members 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 Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 93

Whereas, a dairy compact is an entity by which state delegations consisting of dairy farmers and other interested parties band together to help the dairy industries in member 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 important because the volatility in fluid milk prices in the past few years has dealt a severe blow to the Louisiana dairy industry; and

Whereas, under current conditions, Louisiana is losing one to two dairies per week; and

Whereas, a Northern Dairy Compact was started approximately two years ago and has been very successful in aiding the dairy industry 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 compact region; Therefore, be it

Resolved that the Legislature of Louisiana does hereby memorialize the United States Congress to ratify the Southern Dairy Compact; 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.

POM–121. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to the United States Army Corps of Engineers; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 24

Whereas, the United States Army Corps of Engineers is proposing the construction of the Inner Harbor Navigation Canal Lock Replacement Project; and

Whereas, the project will increase the size and number of vessels using this waterway; and

Whereas, given the data supplied by the Corps of Engineers, New Orleans District, the project will result in longer and more frequent bridge openings at St. Claude Avenue (LA 49) and Claiborne Avenue (LA 39) exacerbating existing traffic flow problems and delays for emergency medical transportation to the primary trauma care center in New Orleans, Louisiana; and

Whereas, the new Inner Harbor Navigation Canal lock proposed by the Corps of Engineers will be located on the north side of Claiborne Avenue; and

Whereas, considering that this new lock will accommodate fifteen large river barges or a nine hundred to twelve hundred foot-long, deep-draft ocean vessel as compared to the existing lock, which can hold only four barges or a deep-draft vessel of six hundred feet or less; and

Whereas, the longer tows and deep-draft vessels will require that both the St. Claude and Claiborne Avenue bridges remain open for longer periods to permit passage and that the Claiborne Avenue Bridge must be opened much more frequently than at present because of the location of the new lock; and

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

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

Whereas, the United States Corps of Engineers' 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 new bridge for St. Claude Avenue and the revisions now proposed for the Claiborne Avenue Bridge; and

Whereas, the magnitude of the traffic problem and the possibility that an erroneous selection of bridges may one day require the state of Louisiana to completely fund necessary 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 replace the proposed St. Claude Avenue Bridge (LA 49) and the Claiborne Avenue Bridge (LA 39), in conjunction with the Inner Harbor Navigation Canal Lock Replacement 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 qualified members of the Louisiana Department of Transportation and Development, the United States Coast Guard, and local representatives of the barge transportation industry; and be it further

Resolved, that the Louisiana Legislature requests our federal elected officials to request the United States Army Corps of Engineers to consider tunnels or fixed high-rise bridges, which are the canal crossing solutions preferred for this project by both the

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 the Louisiana Legislature memorializes the United States Congress to make resumption of federal funding for this project contingent on the completion of a traffic study and that the project evaluation report be rewritten to include such crossings if warranted by the traffic study review; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress 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 Mississippi River and were nourished by the freshwater sediment and nutrients from the river; and

Whereas, these ecosystems have been declining 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 and Lake Maurepas has been proposed which would introduce fresh water and sediment directly into the swamp, an area where the forests are ailing from lack of nutrients and sediments; and

Whereas, such 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, such as 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 expeditious 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. DORGAN, Mr. FITZGERALD, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, 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 of 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 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.

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 certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. 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 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 exempt feed truck chassis from excise tax on heavy trucks and trailers; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1093. A bill to amend title 38, United States Code, to exclude certain income from annual income determinations for pension purposes, to limit provision of benefits for fugitive and incarcerated veterans, to increase the home loan guaranty amount for construction and purchase of homes, to modify and enhance other authorities relating to veterans' benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mrs. MURRAY, and 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.

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

S.J. Res. 17. A joint resolution providing for congressional disapproval of the rule submitted by the President relating to the restoration of the Mexico City Policy; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 114. A resolution commemorating the 125th anniversary of the Battle at Little Bighorn; to the Committee on the Judiciary.

By Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. BIDEN):

S. Res. 115. Resolution encouraging a lasting cease-fire in Macedonia, commending the parties for seeking a political solution, and for other purposes; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, and Mr. LOTT):

S. Con. Res. 54. A concurrent resolution 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; considered and agreed to.

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. 535

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. 535, 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

(Ms. MIKULSKI) was added as a cosponsor of S. 626, a bill to amend the Internal Revenue Code of 1986 to permanently extend the work opportunity credit and the welfare-to-work credit, and for other purposes.

S. 710

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 726

At the request of Mr. BREAUX, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 726, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of prepayments for natural gas.

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 960

At the request of Mr. BINGAMAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1016

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1016, a bill to amend titles XIX and XXI of the Social Security Act to improve the health benefits coverage of infants and children under the medicaid and State children's health insurance program, and for other purposes.

S. 1030

At the request of Mr. CONRAD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1030, a bill to improve health care in rural areas by amending title XVIII of the Social Security Act and the Public Health Service Act, and for other purposes.

S. 1050

At the request of Mr. SANTORUM, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1050, a bill to protect infants who are born alive.

S. 1067

At the request of Mr. GRASSLEY, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1067, a bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

S. RES. 72

At the request of Mr. SPECTER, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. Res. 72, a resolution designating the month of April as ''National Sexual Assault Awareness Month.''

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor 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.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 cosponsor of S. Con. Res. 42, a concurrent resolution condemning the Taleban for their discriminatory policies and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINTS RESOLUTIONS

By Mr. CONRAD (for himself, Mr. NICKLES, Mr. BREAUX, Mr. DORGAN, Mr. FITZGERALD, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, 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 of 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 the 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 the 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 Industrial 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,

SECTION 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.—Subparagraph (D) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 10-year property) is 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:

''(iii) 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 if—

''(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.

''(B) CERTAIN 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.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) 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.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), 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 subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—

''(i) IN GENERAL.—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.

''(ii) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under clause (i) by reason of—

''(I) death,

''(II) a transaction to which section 381(a) applies,

''(III) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business,

''(IV) the acquisition of such property in an exchange described in section 1031, 1033, 1038, or 1039 to the extent that the basis of such property includes an amount representing the adjusted basis of other 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, 351, 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 distributor.

''(iii) RELATED PERSON.—For purposes of this subparagraph, a person (hereafter in this clause 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 and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).''.

(c) 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:

''(G) Qualified leasehold improvement property described in subsection (e)(6).''.

(d) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code is amended by inserting after the item relating to subparagraph (D)(ii) the following new item:

''(D)(iii) ..... 10''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified leasehold improvement 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 use 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, MGIB, modeled after the original GI bill, provides a valuable recruitment and retention tool for the Armed Services and begins to repay veterans for the service they have given to our Nation. As a transition benefit, it allows veterans to gain the skills they need to adjust productively to civilian life.

Currently, the MGIB provides a basic monthly benefit of $650 for 36 months of education. This payment structure is designed to assist veterans pursuing traditional four-year degrees at universities. However, in today's fast paced, high-tech economy, traditional degrees may not always be the best option. Many veterans are pursuing forms of nontraditional training, short-term courses often leading to certification in a technical field. In certain fields, these certifications are a prerequisite to employment.

These courses, such as Microsoft or Cisco systems training, may be offered through training centers, private contractors to community colleges, or the companies themselves. They often last just a few weeks or months, and can cost many thousands of dollars. The way MGIB is paid out in monthly disbursements is not suited to this course structure. For example, MGIB would pay, at most, $1300 for a two-month course that potentially costs $10,000.

Even if veterans claimed this small benefit, providers must be approved by VA as an educational institution in every State in which they operate in order for MGIB benefits to be paid for coursework. Because veterans would only recoup a small portion of the course cost from VA, many of the course providers do not undertake the onerous processing of becoming VA-approved. Therefore, many veterans with MGIB eligibility are forced to bear the entire costs of these courses. Many borrow the funds to pay for them, incurring significant interest charges.

I note that last year, in Public Law 106–419, Congress extended MGIB benefits to cover the costs of certification exams that these courses prepare veterans to take. I believe that we should take the next logical step and pay for the courses themselves.

The percentage of veterans who actually use the MGIB benefits that they have earned and paid for is startlingly low, despite almost full enrollment in the program by servicemembers. By increasing the flexibility of the MGIB program, we will permit more veterans to take advantage of these benefits. We should give veterans the right to choose what kind of educational program will be best for them.

This legislation would modify the payment method to accommodate the compressed schedule of the courses. Specifically, Section 1 would allow veterans to receive an accelerated payment equal to 60 percent of the cost of the program. This is comparable to VA's MGIB benefit for flight training, for which VA reimburses 60 percent of the costs. The dollar value of the accelerated payment would then be deducted from the veteran's remaining entitlement. Section 2 would allow courses offered by these providers to be covered by MGIB.

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 these veterans may require coursework to convert their military skills to civilian careers. The MGIB must continue to evolve to keep pace with the careers and education that today's veterans require. I urge my colleagues to join me in recognizing the changing needs of our veterans, and to maintain this investment in our veterans and our Nation.

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. 1088

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

SECTION 1. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.

(a) IN GENERAL.—(1) Chapter 30 of title 38, United States Code, is amended by inserting after section 3014 the following new section:

''§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry

''(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

''(b) An individual described in this subsection is an individual who is—

''(1) enrolled in an approved program of education that leads to employment in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

''(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

''(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

''(A) the amount equal to 60 percent of the established charges for the program of education; or

''(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

''(2) In this subsection, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the amount of the established charges for the program of education.

''(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution providing the program of education of the individual's enrollment in and pursuit of the program of education.

''(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual's entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

''(2) If the monthly rate of basic educational assistance allowance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the individual's entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by computing the portion of the accelerated payment attributable to each monthly rate that would have payable for the enrollment, dividing each such portion by the applicable monthly rate, and adding the results together.

''(f) The Secretary may, pursuant to such regulations as the Secretary shall prescribe, recover overpayments of basic educational assistance under this chapter resulting from accelerated payments of basic educational assistance under this section.

''(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for electing and using accelerated payments of basic educational assistance under this section and for the recovery of overpayments of basic educational assistance under this chapter resulting from accelerated payments of basic educational assistance under this section.''.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 3014 the following new item:

''3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry.''.

(b) RESTATEMENT AND EXPANSION OF CERTAIN ADMINISTRATIVE AUTHORITIES.—Subsection (g) of section 3680 of title 38, United States Code, is amended to read as follows:

''(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

''(A) Enrollment in a course or a program of education or training.

''(B) Pursuit of a course or program of education or training.

''(C) Attendance at a course or program of education and training.

''(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

''(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual's monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

''(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual's certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.''.

(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 each amended by adding at the end the following new sentence: ''Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized 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, it is very likely that 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 last 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 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 which NOD confers jurisdiction 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:

''(h) TEMPORARY EXPANSION OF COURT.—(1) Notwithstanding subsection (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 either 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 Amendments of 1999 (title X of Public Law 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

''(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.''.

(2) No appointment may be made under section 7253 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 ''(f)(1)'' and inserting ''(f) REMOVAL.—(1)''; and

(4) in subsection (g), by inserting ''RULES.—'' before ''The Court''.

SEC. 2. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7296(b)(2) of title 38, United States Code, is amended by striking the second sentence.

SEC. 3. TERMINATION OF NOTICE OF DISAGREEMENT 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 Public Law 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. 5904 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 repeals 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 that date, other than an appeal in which the Court has made a final disposition under section 7267 of title 38, United States Code, even though such appeal is not yet final under section 7291(a) of title 38, United States Code.

By Mr. ROCKEFELLER (for himself, Mr. 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 herbicide-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 fair treatment 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 also 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

herbicides used in Vietnam. The scientific reviews, there have been four thus far, have found evidence of connections between exposure to dioxin and diseases such as respiratory cancers, Type 2 diabetes, and the birth defect spina bifida, all currently compensated by the VA as service connected.

These reviews will end after 2002 unless we act now. We simply do not know enough about the long-term effects of dioxin exposure to say that the body of scientific evidence is complete. The bill before us would direct the Secretary of Veterans Affairs to extend the existing agreement with NAS to provide five more biennial reports.

Currently, title 38 of the United States Code allows Vietnam veterans with respiratory cancers to claim benefits for this disease as a service-connected disability, but only if the disease manifested within 30 years of their service in Vietnam. The most recent NAS report confirmed that there is no scientific basis for assuming that cancers linked to dioxin exposure would occur within a specific window of time.

The bill that I am introducing would remove this arbitrary limit, and would restore eligibility for benefits to any Vietnam veterans with respiratory cancers previously denied due to the cutoff. I recently learned of the tragic story of Jerry Slusher from Huntington, WV, a decorated combat veteran of the Vietnam war. While dying of respiratory cancer in 1999, Jerry filed for benefits and learned that he might have been eligible, if only he had been diagnosed just a few months earlier. The men and women who served this Nation, and who struggle with the consequences of that service so many years later, deserve better.

Lastly, this bill would give all Vietnam veterans the benefit of the doubt regarding their exposure in Vietnam when claiming benefits for diseases related to Agent Orange exposure. Due to the difficulties in determining who might have been exposed to Agent Orange, Congress determined in 1991 that the Secretary of Veterans Affairs should concede exposure to veterans whose military records indicated that they served in Vietnam during the Vietnam era. This presumption eased a veteran's burden in qualifying for service-connected benefits.

VA subsequently interpreted this law to mean that, if a veteran had served in Vietnam during the war, it should be presumed that the veteran was exposed to Agent Orange. However, the United States Court of Appeals for Veterans Claims ruled in McCartt v. West (12 Vet. App. 164[1999]) that VA had interpreted the statute too broadly. This ruling limited the presumption of exposure to Vietnam veterans diagnosed with one or more of the diseases listed by the Secretary of Veterans Affairs, rather than to any disease claimed by a veteran.

As a result, veterans who suffer from diseases not on this list must go about 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 during the war.

This bill ensures that the system of scientific review and determinations for presumptive compensation already in place for Vietnam veterans will continue. We must address these issues promptly to continue to assist veterans who have already waited too long for answers. 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 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 AUTHORITIES ON THE PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM ERA VETERANS.

(a) REPEAL OF 30-YEAR LIMITATION ON MANIFESTATION OF RESPIRATORY CANCERS.—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, 1975''.

(b) TREATMENT OF CLAIMS DENIED UNDER LIMITATION ON MANIFESTATION.—(1) The Secretary of Veterans Affairs shall treat each claim for disability compensation under 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 day before the date of the 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 would otherwise have been granted had the limitation referred to in that paragraph not applied to the claim when 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 transferring paragraph (3) of subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f); and

(B) in subsection (f), as so transferred and redesignated—

(i) by striking ''For the 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''; and

(ii) by striking ''and has a disease referred to in paragraph (1)(B) of this subsection''.

(2)(A) The section heading of that 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 section at the beginning of chapter 11 of that title 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 DISEASES.—(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(i) 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, Ms. MIKULSKI, Mrs. MURRAY, and 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 into the Federal commitment to 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 authorization 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,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hematological Cancer Research Investment and Education Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that:

(1) An estimated 109,500 people in the United States will be diagnosed with leukemia, lymphoma, and multiple myeloma in 2001.

(2) New cases of the blood cancers described in paragraph (1) account for 8.6 percent of new cancer cases.

(3) Those devastating blood cancers will cause the deaths of an estimated 60,300 persons in the United States in 2001. Every 9 minutes, a person in the United States dies from leukemia, lymphoma, or multiple myeloma.

(4) While less than 5 percent of Federal funds for cancer research are spent on those blood cancers, those blood cancers cause 11 percent of all cancer deaths in the United States.

(5) Increased Federal support of research into leukemia, lymphoma, and multiple myeloma has resulted and will continue to result in significant advances in the early detection, the treatment, and ultimately the cure of those blood cancers.

SEC. 3. RESEARCH, INFORMATION, AND EDUCATION WITH RESPECT TO BLOOD CANCER.

(a) RESEARCH.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

''SEC. 409I. RESEARCH, INFORMATION, AND EDUCATION WITH RESPECT TO BLOOD CANCER.

''(a) RESEARCH.—

''(1) SUBJECT.—The Director of the National Institutes of Health shall establish and carry out a program for the conduct and support of research with respect to blood cancer, and particularly with respect to leukemia, lymphoma, and multiple myeloma.

''(2) ADMINISTRATION.—The Director of 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.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for fiscal year 2002 and each subsequent fiscal year.

''(b) INFORMATION AND EDUCATION.—

''(1) SUBJECT.—The Director of the Centers for Disease Control and Prevention shall establish and carry out a program to provide information and education for the general public with respect to blood cancer, and particularly with respect to leukemia, lymphoma, and multiple myeloma.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for fiscal year 2002 and each subsequent fiscal year.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 114—COMMEMORATING THE 125TH ANNIVERSARY OF THE BATTLE AT LITTLE BIGHORN

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 114

Whereas, On June 25, 1876, the 7th Cavalry of the United States Army, led by Lieutenant Colonel George Armstrong Custer, fought with a group of Sioux, Cheyenne and Arapaho Indians camped on the shores of the Little Bighorn River.

Whereas, this battle was the result of increasing hostility between the United States and Sioux and Cheyenne tribes over Sioux ownership of the Black Hills and the trespass of non-Indians into the area;

Whereas, the Sioux believed the Black Hills, or Paha Sapa, as they called them, to be sacred, a place they traveled to in order to have visions and pray;

Whereas, the United States and Sioux leaders agreed to the Treaty of Fort Laramie in 1868, securing to the Sioux the ownership of the Black Hills forever, and pledging to aid and assist in keeping trespassers away from the Black Hills;

Whereas, the United States violated the Treaty of Fort Laramie in 1874 by sending, without the permission of the Sioux, a reconnaissance mission to the Black Hills, led by General George Armstrong Custer;

Whereas, tensions were rising in Sioux Country, where the tribes were becoming increasingly unsettled, and feared the loss of Sioux Country and their way of life;

Whereas, the Battle at Little Bighorn was preceded by two military engagements, occurring on March 17, 1876, and June 17, 1876;

Whereas, after the second engagement, now known as the Battle at Rosebud, the Sioux and Cheyenne moved their encampment from the Rosebud River to the Little Bighorn River;

Whereas, Lieutenant Colonel Custer, along with 650 soldiers and scouts, was dispatched to scout for the Indians along the Rosebud and Little Bighorn Rivers;

Whereas, on the morning of June 25, 1876, Lieutenant Colonel Custer discovered the Indian encampment of approximately 10,000 on the shore of the Little Bighorn River and determined to engage in a battle with them;

Whereas, Lieutenant Colonel Custer's forces, upon attempting to engage the Indian warriors at the shore of the Little Bighorn River, were forced back up the ridge from which they attacked and forced west, and were overwhelmed by Indian forces;

Whereas, the 201 men under the command of Lieutenant Colonel Custer were killed and the total losses suffered by the U.S. Army numbered 258;

Whereas, the Sioux and Cheyenne, led by Sitting Bull, Crazy Horse, and Gall, suffered losses of approximately 58;

Whereas, the Battle of Little Bighorn occupies a legendary place in American history, a tragic clash of two cultures leading to the demise of the traditional Indian way of life, and the end of the era known in American history as the ''Indian Wars'';

Resolved, that the Senate,

(1) honors the memory of those who died in the battle, the Indians 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 respect.

Mr. CAMPBELL: Mr. President, next Monday, June 25th, marks the 125 anniversary of the Battle of Little Bighorn, an event which occupies near-mythical significance in the American psyche and one that is representative of an era past in the American West.

In 1990, I introduced legislation which changed the American perspective of the Battle of Little Bighorn. 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 scour and rewrite 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.

SENATE RESOLUTION 115—RESOLUTION ENCOURAGING A LASTING CEASE-FIRE IN MACEDONIA, COMMENDING THE PARTIES FOR SEEKING A POLITICAL SOLUTION, AND FOR OTHER PURPOSES

Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 115

Whereas, the political, economic, and social situation in Macedonia has steadily deteriorated since February 2001;

Whereas, ongoing fighting between the National Liberation Army and the Government of Macedonia presents a clear and present danger to the viability of Macedonia;

Whereas, a Macedonian civil war exacerbates tensions in the region and could trigger additional incidents of violence in the Balkans;

Whereas, the ongoing fighting has displaced at least 18,000 people inside Macedonia, and forced another 40,000 people to flee into neighboring countries;

Whereas, political parties in Macedonia are negotiating a political solution to the current crisis;

Whereas, a cease-fire and dialogue between the parties are essential to preventing full scale inter-ethnic warfare in Macedonia; and

Whereas, a unified and independent Macedonia is in United States national security interests: Now, therefore, be it

Resolved, That the Senate—

(1) encourages a lasting cease-fire, and calls upon the Government of Macedonia to ensure the protection of the lives and property of all citizens of Macedonia;

(2) commends the political parties in Macedonia for seeking a political solution to the current crisis, and encourages a continued commitment to dialogue by those parties;

(3) calls upon the Government of Macedonia to address the concerns of all citizens of Macedonia in a fair and equitable manner;

(4) recognizes that the United States and other countries must assume a more pro-active role in aiding the Government of Macedonia and the political parties in Macedonia to secure and maintain a lasting solution to the conflict; and

(5) pledges its support for additional United States assistance for programs and activities that contribute to reconstruction in Macedonia and a resolution of inter-ethnic tensions in that country.

Mr. MCCONNELL. Mr. President, Senator LEAHY, Senator BIDEN, and I submit this resolution as an indication of our support and encouragement for continued negotiations between ethnic-Albanian and Macedonian political parties. A unified and independent Macedonia is in the best interests of all the citizens of Macedonia, neighboring countries, and the United States.

The news this morning of renewed fighting in the wake of stalled talks is deeply troubling. Continued armed conflict serves only to exacerbate an already difficult and tense situation. American leadership and engagement is essential in resolving the current crisis. We must be clear: a lasting cease-fire and peace can only be secured through dialogue and disarmament.

Frustrations on both sides of the negotiating table are growing daily. However difficult and dire the situation may seem today, it will only get worse if the talks completely collapse. The stakes are indeed high, and call for cooler heads and responsible, and responsive, leadership.

Make no mistake, the long standing and legitimate grievances of ethnic-Albanians must be on the table for discussion, and successful resolution. While the rights and lives of all Macedonian citizens must be protected and guaranteed, Macedonian officials must be particularly vigilant in ensuring that ethnic-Albanians are not targeted for retribution, as has unfortunately been the case in the past. The foundation of peace and stability is nothing less than equality for all citizens of Macedonia under the law and genuine respect for democratic processes, institutions, and the rule of law.

We hope that all parties at the negotiation table in Skopje understand that in their hands rests the fate of the country. We stand ready to support U.S.-funded programs and activities that contribute to the reconstruction and a resolution of inter-ethnic tensions in Macedonia.

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 bloodshed and destruction 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, but they hold only a fraction of 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's 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 would 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. BINGAMAN (for himself, Mr. DASCHLE, and Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the Capitol is 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 shall 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 140, lines 11 and 12, strike ''issuer, or plan sponsor—'' 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 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.

Beginning on page 160, strike line 21 and all that follows through line 14 on page 164, and insert the following:

''(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Paragraph (1) does not—

''(i) 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), 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 Morello, 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 amendment:

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:

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965: SHORT TITLE; PURPOSE; DEFINITIONS; UNIFORM PROVISIONS.

The Act (20 U.S.C. 6301 et seq.) is amended—

*(1) in the heading for section 1, by striking ''**TABLE OF CONTENTS**'' and inserting ''**SHORT TITLE**''; and*

(2) by adding after section 1 the following:

''SEC. 2. PURPOSE.

''It is the purpose of this Act to support programs and activities that will improve the Nation's schools and enable all children to achieve high standards.

''SEC. 3. DEFINITIONS.

''Except as otherwise provided, in this Act:

''(1) AVERAGE DAILY ATTENDANCE.—

''(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

''(i) the aggregate number of days of attendance of all students during a school year; divided by

''(ii) the number of days school is in session during such school year.

''(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

''(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

''(i) consider the child to be in attendance at a school of the agency making such payment; and

''(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

''(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

''(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

''(ii) any direct current expenditures by the State for the operation of such agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

''(3) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

''(4) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

''(A) is representative of a community or significant segments of a community; and

''(B) provides educational or related services to individuals in the community.

''(5) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 5505.

''(6) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 5505.

''(7) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency after consultation with the Governor pursuant to section 5502.

''(8) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency after consultation with the Governor pursuant to section 5502.

''(9) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

''(10) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

''(A) part A of title I;

''(B) part C of title I;

''(C) part C of title II;

''(D) part A of title IV (other than section 4114); and

''(E) subpart 4 of part B of title V.

''(11) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education—

''(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

''(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subpart 4 of part B of title V.

''(12) DEPARTMENT.—The term 'Department' means the Department of Education.

''(13) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

''(14) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

''(15) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

''(A) at public expense, under public supervision and direction, and without tuition charge; and

''(B) as elementary school or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

''(16) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

''(17) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

''(18) LOCAL EDUCATIONAL AGENCY.—

''(A) IN GENERAL.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for the State's public elementary or secondary schools.

''(B) ADMINISTRATIVE CONTROL AND DIRECTION.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

''(C) BIA SCHOOLS.—The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(19) MENTORING.—The term 'mentoring', when used with respect to mentoring other than teacher mentoring, means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

''(20) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

''(21) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121 and any other discretionary grant program under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(22) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

''(23) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents 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 decisionmaking and advisory committees; and

''(E) the carrying out of other activities described in section 1118.

''(24) PUBLIC TELECOMMUNICATIONS ENTITY.—The term 'public telecommunication entity' has the same meaning given to such term in section 397 of the Communications Act of 1934.

''(25) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—

''(A) PUPIL SERVICES PERSONNEL.—The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

''(B) PUPIL SERVICES.—The term 'pupil services' means the services provided by pupil services personnel.

''(26) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' used with respect to an activity or a program, means an activity based on specific strategies and implementation of such strategies that, based on theory, research and evaluation, are effective in improving student achievement and performance and other program objectives.

''(27) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

''(28) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(29) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(30) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

''(31) TEACHER MENTORING.—The term 'teacher mentoring' means activities that—

''(A) consist of structured guidance and regular and ongoing support for beginning teachers, that—

''(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

''(ii) as part of a multiyear, developmental induction process—

''(I) involve the assistance of a mentor teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

''(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

''(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

''(32) TECHNOLOGY.—The term 'technology' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, 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-quality digital video, distance learning networks, visualization, modeling, and simulation software, and learning focused digital libraries and information retrieval systems.

''SEC. 4. MAINTENANCE OF EFFORT.

''(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

''(b) REDUCTION IN CASE OF FAILURE TO MEET.—

''(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

''(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

''(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

''(1) exceptional or uncontrollable circumstances such as a natural disaster; or

''(2) a precipitous decline in the financial resources of the local educational agency.

''SEC. 5. PROHIBITION REGARDING STATE AID.

''A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

''SEC. 6. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

''(a) PRIVATE SCHOOL PARTICIPATION.—

''(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials provide, on an equitable basis, such children special educational services or other benefits under such program, and provide their teachers and other education personnel serving such children training and professional development services under such program.

''(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

''(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

''(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

''(5) PROVISION OF SERVICES.—Such agency or consortium described in subsection (a)(1) may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section applies to programs under—

''(A) subpart 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 consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

''(A) how the children's needs will be identified;

''(B) what services will be offered;

''(C) how and where the services will be provided; and

''(D) how the services will be assessed.

''(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

''(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

''(d) PUBLIC CONTROL OF FUNDS.—

''(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

''(i) by employees of a public agency; or

''(ii) through contract by such public agency with an individual, association, agency, or organization.

''(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

''(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

''SEC. 7. STANDARDS FOR BY-PASS.

''If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 6, the Secretary shall—

''(1) waive the requirements of that section for such agency or consortium; and

''(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 6, 8, and 9.

''SEC. 8. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

''(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 6 by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

''(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

''SEC. 9. BY-PASS DETERMINATION PROCESS.

''(a) REVIEW.—

''(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 7 until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

''(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

''(2) PETITION FOR REVIEW.—(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

''(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

''(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

''(3) FINDINGS OF FACT.—(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

''(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(4) JURISDICTION.—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

''(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 6 or any other provision of this Act.

''(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

''(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

''SEC. 10. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

''Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

''SEC. 11. APPLICABILITY TO HOME SCHOOLS.

''Nothing in this Act shall be construed to affect home schools.

''SEC. 12. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

''Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

''SEC. 13. SCHOOL PRAYER.

''Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

''SEC. 14. GENERAL PROHIBITIONS.

''(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

''(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

''(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

''(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

''(4) to operate a program of condom distribution in schools.

''(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

''(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

''(2) limit the application of the General Education Provisions Act;

''(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

''(4) create any legally enforceable right.

''SEC. 15. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

''Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

''SEC. 16. ADDITIONAL LIMITATIONS ON NATIONAL TESTING.

''(a) NATIONAL TESTING.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other provision of law, and except as provided in paragraph (2), 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 distribution, or any other purpose.

''(2) EXCEPTION.—Paragraph (1) shall not apply to the following:

''(A) The National Assessment of Educational Progress carried out under sections 411 through 413 of the Improving America's Schools Act of 1994 (20 U.S.C. 9010–9012).

''(B) The Third International Math and Science Study (TIMSS).

''(b) MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

''(c) DEVELOPMENT OF DATABASE OF PERSONALLY IDENTIFIABLE INFORMATION.—Nothing in this Act (other than section 1308(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.

''SEC. 17. ADDITIONAL LIMITATIONS AND PROTECTIONS REGARDING PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

''(a) APPLICABILITY TO HOME SCHOOLS.—(1) Nothing in this Act shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law or to require any home schooled student to participate in any assessment referenced in this Act.

''(2) CONSTRUCTION OF SUPERSEDED PROVISION.—Section 11 shall have no force or effect.

''(b) APPILICABILITY TO PRIVATE SCHOOLS.—Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, or to require any student who attends a private school that does not receive funds or services under this Act to participate in any assessment referenced in this Act.

''(c) APPLICABILITY TO PRIVATE, RELIGIONS, AND HOME SCHOOLS OF GENERAL PROVISION REGARDING RECIPIENT NONPUBLIC SCHOOLS.—

''(1) IN GENERAL.—Nothing in this Act or any other Act administered by the Secretary shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, and home schools from participation in programs and services under this Act.

''(2) CONSTRUCTION OF SUPERSEDED PROVISION.—Section 12 shall have no force or effect.

''(d) APPLICABILITY OF GUN-FREE SCHOOL PROVISIONS TO HOME SCHOOLS.—Notwithstanding any provision of part B of title IV, for purposes of that part, the term 'school' shall not include a home school, regardless of whether or not a home school is treated as a private school or home school under State law.

''(e) STATE AND LOCAL EDUCATIONAL AGENCY MANDATES REGARDING PRIVATE AND HOME SCHOOL CURRICULA.—Nothing in this Act shall be construed to require any State or local educational agency that receives funds under this Act from mandating, directing, or controlling the curriculum of a private or home school, regardless of whether or not a home school is treated as a private school or home school under State law, nor shall any funds under this Act be used for this purpose.

''SEC. 18. PROHIBITION ON DISCRIMINATION.

''Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.''.

TITLE I—BETTER RESULTS FOR DISADVANTAGED CHILDREN

SEC. 101. POLICY AND PURPOSE.

Section 1001 (20 U.S.C. 6301) is amended to read as follows:

''SEC. 1001. STATEMENT OF PURPOSE.

''The purpose of this title is to enable schools to provide opportunities for children served under this title to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State student performance standards developed for all children. This purpose should be accomplished by—

''(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

''(2) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

''(3) promoting schoolwide reform and ensuring access of children (from the earliest grades, including prekindergarten) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

''(4) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

''(5) coordinating services under all parts of this title with each other, with other educational services, and to the extent feasible, with other agencies providing services to youth, children, and families that are funded from other sources;

''(6) affording parents substantial and meaningful opportunities to participate in the education of their children at home and at school;

''(7) distributing resources in amounts sufficient to make a difference to local educational agencies and schools where needs are greatest;

''(8) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to measure how well children served under this title are achieving challenging State student performance standards expected of all children; and

''(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 1002 (20 U.S.C. 6302) is amended to read as follows:

''SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

''(a) LOCAL EDUCATIONAL AGENCY GRANTS.—

''(1) SHORT TITLE.—This subsection may be cited as the 'Equal Educational Opportunity Act'.

''(2) AUTHORIZATION.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated—

''(A) $15,000,000,000 for fiscal year 2002;
''(B) $18,240,000,000 for fiscal year 2003;
''(C) $21,480,000,000 for fiscal year 2004;
''(D) $24,720,000,000 for fiscal year 2005;
''(E) $27,960,000,000 for fiscal year 2006;
''(F) $31,200,000,000 for fiscal year 2007;
''(G) $34,440,000,000 for fiscal year 2008;
''(H) $37,680,000,000 for fiscal year 2009;
''(I) $40,920,000,000 for fiscal year 2010; and
''(J) $44,164,000,000 for fiscal year 2011.

''(b) READING FIRST.—

''(1) EVEN START.—For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(2) READING FIRST.—For the purpose of carrying out subpart 2 of part B, there are authorized to be appropriated $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(3) EARLY READING FIRST.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated $75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part C, there are authorized to be appropriated $400,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.—For the purpose of carrying out part D, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(e) CAPITAL EXPENSES.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $15,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $5,000,000 for fiscal year 2004.

''(f) FEDERAL ACTIVITIES.—

''(1) SECTION 1501.—For the purpose of carrying out section 1501, there are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(2) SECTION 1502.—For the purpose of carrying out section 1502, there are authorized to be appropriated $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(g) 21ST CENTURY LEARNING CENTERS.—For the purpose of carrying out part F, there are authorized to be appropriated $1,500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(h) COMPREHENSIVE SCHOOL REFORM.—For the purpose of carrying out part G, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(i) SCHOOL DROPOUT PREVENTION.—For the purpose of carrying out part H, there are authorized to be appropriated $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years, of which—

''(1) 10 percent shall be available to carry out subpart 1 of part H for each fiscal year; and

''(2) 90 percent shall be available to carry out subpart 2 of part H for each fiscal year.''.

SEC. 103. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.

Section 1003 (20 U.S.C. 6303) is amended to read as follows:

''SEC. 1003. RESERVATION FOR SCHOOL IMPROVEMENT.

''(a) STATE RESERVATION.—Each State educational agency shall reserve 3.5 percent of the amount the State educational agency receives under subpart 2 of part A for each of the fiscal years 2002 and 2003, and 5 percent of that amount for each of the fiscal years 2004 through 2008, to carry out subsection (b) and to carry out the State educational agency's responsibilities under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

''(b) USES.—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency shall make available not less than 50 percent of that amount directly to local educational agencies for schools identified for

school improvement, corrective action, or reconstitution under section 1116(c).

''(c) STATE PLAN.—Each State educational agency, in consultation with the Governor, shall prepare a plan to carry out the responsibilities of the State under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.''.

PART A—BETTER RESULTS FOR DISADVANTAGED CHILDREN

SEC. 111. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended to read as follows:

''SEC. 1111. STATE PLANS.

''(a) PLANS REQUIRED.—

''(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary, by March 1, 2002, a plan prepared by the chief State school official, in consultation with the Governor, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Adult Education and Family Literacy Act, and the Head Start Act.

''(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 5506.

''(b) STANDARDS, ASSESSMENTS, AND ACCOUNTABILITY.—

''(1) CHALLENGING STANDARDS.—(A) Each State plan shall demonstrate that the State has adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

''(B) The standards required by subparagraph (A) shall be the same standards that the State applies to all schools and children in the State.

''(C) The State shall have the standards described in subparagraph (A) for all public elementary school and secondary school children 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 who are not 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 students not later than the beginning of the school year 2002–2003; and

''(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—

''(i) challenging content standards in academic subjects that—

''(I) specify what children are expected to know and be able to do;

''(II) contain coherent and rigorous content; and

''(III) encourage the teaching of advanced skills; and

''(ii) challenging student performance standards that—

''(I) are aligned with the State's content standards; and

''(II) describe 2 levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards.

''(E) For the subjects in which students served under this part will be taught, but for which a State is not required by subparagraphs (A), (B), and (C) to develop standards, and has not otherwise developed standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

''(2) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that has been or will be effective in ensuring that all local educational agencies, elementary schools, and secondary schools make adequate yearly progress as defined under subparagraphs (B) and (D). Each State accountability system shall—

''(i) be based on the standards and assessments adopted under paragraphs (1) and (3) and take into account the performance of all students;

''(ii) be used for all schools or all local educational agencies in the State, except that schools and local educational agencies not participating under this part are not subject to the requirements of section 1116(c);

''(iii) include performance indicators for local educational agencies and schools to measure student performance consistent with subparagraph (B); and

''(iv) include sanctions and rewards, such as bonuses or recognition, the State will use to hold local educational agencies and schools accountable for student achievement and performance and for ensuring that the agencies and schools make adequate yearly progress in accordance with the State's definition under subparagraph (B).

''(B) Adequate yearly progress shall be defined in accordance with subparagraph (D) and in a manner that—

''(i) applies the same high standards of academic performance to all students in the State;

''(ii) is statistically valid and reliable;

''(iii) results in continuous and substantial academic improvement for all students;

''(iv) measures the progress of schools and local educational agencies based primarily on the assessments described in paragraph (3);

''(v) includes annual measurable objectives for continuing and significant improvement in—

''(I) the achievement of all students; and

''(II) the achievement of economically disadvantaged students, students with disabilities, students with limited English proficiency, migrant students, students by racial and ethnic group, and students by gender, except that such disaggregation shall not be required in any case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student;

''(vi) includes a timeline for meeting the goal that each group of students described in clause (v) will meet or exceed the State's proficient level of performance on the State assessment used for the purposes of this section and section 1116 not later than 10 years after the date of enactment of the Better Education for Students and Teachers Act; and

''(vii) includes school completion or graduation rates for secondary school students and at least 1 other academic indicator, as determined by the State, for elementary school students, except that inclusion of such indicators shall not decrease the number of schools or local educational agencies that would otherwise be subject to identification for improvement or corrective action if the indicators were not included.

''(C)(i) Each State plan shall include a detailed description of an objective system or formula that incorporates and gives appropriate weight to each of the elements described in subparagraph (B), including the progress of each of the groups of students described in subparagraph (B)(v)(II), in meeting the State's annual measurable objectives for continuing and significant improvement under subparagraph (B)(v) and in making progress toward the 10-year goal described in subparagraph (B)(vi), and that is primarily based on academic progress as demonstrated by the assessments described in paragraph (3) in subjects for which assessments are required under this section, except that the State shall give greater weight to the groups—

''(I) performing at a level furthest from the proficient level; and

''(II) that make the greatest improvement.

''(ii) The system or formula shall be subject to peer review and approval by the Secretary under subsection (e). The Secretary shall not approve the system or formula unless the Secretary determines that the system or formula is sufficiently rigorous and reliable to ensure continuous and significant progress toward the goal of having all students proficient within 10 years.

''(D) A State shall define adequate yearly progress for the purpose of making determinations under this Act so that—

''(i) a school, local educational agency, or State, respectively, has failed to make adequate yearly progress if the school, local educational agency, or State, respectively, has not—

''(I) made adequate progress as determined by the system or formula described in subparagraph (C); or

''(II) for each group of students described in subparagraph (B)(v)(II) (other than those groups formed by gender and migrant status), achieved an increase of not less than 1 percent, in the percentage of students served by the school, local educational agency, or State, respectively, meeting the State's proficient level of performance in reading or language arts and mathematics, for a school year compared to the preceding school year; and

''(ii) for the purpose of making determinations under clause (i) (I) or (II), the State may establish a uniform procedure for averaging data from the school year for which the determination is made and 1 or 2 school years preceding such school year.

''(E) Each State shall ensure that in developing its plan, the State diligently seeks public comment from a range of institutions and individuals in the State with an interest in improved student achievement and performance, including parents, teachers, local educational agencies, pupil services personnel, administrators (including those described in other parts of this title), and other staff, and that the State will continue to make a substantial effort to ensure that information under this part is widely known and understood by the public, parents, teachers, and school administrators throughout the State. Such efforts shall include, at a minimum, publication of such information and explanatory text, broadly to the public through such means as the Internet, the media, and public agencies.

''(F) If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt content and student performance standards, and assessments aligned with such standards, which will be applicable to all students enrolled in the State's public schools, the State educational agency may meet the requirements of this subsection by—

''(i) adopting standards and assessments that meet the requirements of this subsection, on a statewide basis, and limiting the applicability of the standards and assessments to students served under this part; or

''(ii) adopting and implementing policies that ensure that each local educational agency in the State which receives a grant under this part will adopt content and student performance standards, and assessments aligned with such standards, which meet all of the criteria of this subsection.

''(G) Each State plan shall provide that in order for a school to make adequate yearly progress under subparagraph (B), not less than 95 percent of each group of students described in subparagraph (B)(v)(II), who are enrolled in the school at the time of the administration of the

assessments, shall take the assessments (in accordance with paragraphs (3)(H)(ii) and (3)(I), and with accommodations, guidelines and alternate assessments provided in the same manner as they are provided under section 612(a)(17)(A) of the Individuals with Disabilities Education Act) on which adequate yearly progress is based, except that nothing in this subparagraph shall be construed to limit the requirement under paragraph (3)(H)(i) to assess all students.

''(H) Each State plan shall provide an assurance that the State's accountability requirements for charter schools (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 at least as rigorous as 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 or language arts, and science that will be used as the primary means of determining the yearly performance of each local educational agency and school in enabling all children to meet the State's student performance standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year. Such assessments shall—

''(A) be the same assessments used to measure the performance of all children;

''(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

''(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments developed and used by national experts on educational testing;

''(D) be used only 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) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

''(F)(i) beginning not later than 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;

''(ii) beginning not 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;

''(iii) beginning not later than school year 2007–2008, measure the proficiency of all students in science 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;

''(G) beginning not later than school year 2005–2006, measure the performance of students against the challenging State content and student performance standards annually in grades 3 through 8, and 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, that were required by amendments made to this paragraph by the Better Education for Students and Teachers Act, in school year 2006–2007, if the State demonstrates to the Secretary that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous or unforeseen decline in the financial resources of the local educational agency or school, prevent full implementation of the assessments in school year 2005–2006 and that the State will administer such assessments during school year 2006–2007;

''(H) 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;

''(I) provide for—

''(i) the participation in such assessments of all students;

''(ii) the reasonable adaptations and accommodations for students with disabilities defined under section 602(3) of the Individuals with Disabilities Education Act necessary to measure the achievement of such students relative to State content and State student performance standards;

''(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do in content areas; and

''(iv) notwithstanding clause (iii), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (excluding the Commonwealth of Puerto Rico) for 3 or more consecutive years, except that if a local educational agency demonstrates to 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, then the State educational agency, on a case-by-case basis, may waive the requirement to use tests written in English for those students and permit those students to be assessed in the appropriate language for one or more additional years, but only if the total number of students so assessed does not exceed one-third of the number of students in the State who were not required to be assessed using tests written in English in the previous year because the students were in the third year of the 3-year period described in this clause;

''(J) beginning not later than school year 2002–2003, provide for the annual assessment of the development of English proficiency (appropriate to students' oral language, reading, and writing skills in English) of students with limited English proficiency who are served under this part or under title III and who do not participate in the assessment described in clause (iv) of subparagraph (I);

''(K) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

''(L) produce individual student interpretive and descriptive reports to be provided 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, such as measures of student course work over time, student attendance rates, student dropout rates, and student participation in advanced level courses;

''(M) enable results to be disaggregated within each State, local educational agency, and school by gender, by racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that in the case of a local educational agency or a school such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student; and

''(N) enable itemized score analyses to be reported to schools and local educational agencies 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.

''(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 the academic subjects in which a State has adopted challenging content and student performance standards 1 or more times during grades kindergarten through 2.

''(5) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages but shall not mandate a specific assessment or mode of instruction.

''(6) REQUIREMENT.—Each State plan shall describe—

''(A) how the State educational agency will help each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 1112(c)(4), 1114(b), and 1115(c) that is applicable to such agency or school;

''(B) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(F), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out of field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

''(C) how the State educational agency will develop or identify high quality effective curriculum models aligned with State standards

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 to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

''(7) ED-FLEX.—A State shall not be eligible for designation under the Ed-Flex Partnership Act of 1999 until the State develops assessments aligned with the State's content standards in at least mathematics and reading or language arts.

''(8) FACTORS IMPACTING STUDENT ACHIEVEMENT.—Each State plan shall include a description of the process that will be used with respect to any school within the State that is identified for school improvement or corrective action under section 1116 to identify the academic and other factors that have significantly impacted 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 cards described in such subsection;

''(2) the State will, beginning in school year 2002–2003, participate in annual State assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 411(b)(2) of the National Education Statistics Act of 1994 if the Secretary pays the costs of administering such assessments, except that 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 requirement of this paragraph on a biennial basis;

''(3) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 1119, technical assistance under section 1117, and parental involvement under section 1118;

''(4)(A) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

''(B) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

''(5) the State educational agency will notify local educational agencies and the public of the content and student performance standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

''(6) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

''(7) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic performance;

''(8) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

''(9) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 1114;

''(10) the State educational agency has involved the committee of practitioners established under section 1903(b) in developing the plan and monitoring its implementation;

''(11) the State educational agency will inform local educational agencies of the local educational agency's authority to obtain waivers under subpart 3 of part B of title V and, if the State is an Ed-Flex Partnership State, waivers under the Education Flexibility Partnership Act of 1999; and

''(12) the State will coordinate activities funded under this part with other Federal activities as appropriate.

''(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

''(1) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children; and

''(2) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents.

''(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

''(1) SECRETARIAL DUTIES.—The Secretary shall—

''(A) establish a peer review process to assist in the review of State plans;

''(B) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, local educational agencies, and who are familiar with educational standards, assessments, accountability, and other diverse educational needs of students;

''(C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

''(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

''(E) not decline to approve a State's plan before—

''(i) offering the State an opportunity to revise its plan;

''(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

''(iii) providing a hearing; and

''(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan 1 or more specific elements of the State's content standards or to use specific assessment instruments or items.

''(2) STATE REVISIONS.—States shall revise their plans if necessary to satisfy the requirements of this section.

''(f) PROVISION OF TESTING RESULTS TO PARENTS AND TEACHERS.—Each State plan shall demonstrate how the State educational agency will assist local educational agencies in assuring that results from the assessments required under this section will be provided to parents and teachers as soon as is practicably possible after the test is taken, in a manner and form that is understandable and easily accessible to parents and teachers.

''(g) DURATION OF THE PLAN.—

''(1) IN GENERAL.—Each State plan shall—

''(A) remain in effect for the duration of the State's participation under this part; and

''(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

''(2) ADDITIONAL INFORMATION.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

''(h) LIMITATION ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

''(i) PENALTY.—If a State fails to meet the statutory deadlines for demonstrating that it has in place challenging content standards and student performance standards, 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.

''(j) REPORTS.—

''(1) ANNUAL STATE REPORT CARD.—

''(A) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual State report card.

''(B) IMPLEMENTATION.—The State report card shall be—

''(i) concise; and

''(ii) presented in a format and manner that parents can understand, and which, to the extent practicable, shall be in a language the parents can understand.

''(C) PUBLIC DISSEMINATION.—The State shall widely disseminate the information described in subparagraph (D) to all schools and local educational agencies in the State and make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies.

''(D) REQUIRED INFORMATION.—The State shall include in its annual State report card—

''(i) information, in the aggregate, on student achievement and performance at each proficiency level on the State assessments described in subsection (b)(3)(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, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student;

''(vi) the percentage of teachers teaching with emergency or provisional credentials (disaggregated by high poverty and low poverty schools which for purposes of this clause means schools in which 50 percent or more, or less than 50 percent, respectively, of the students are from low-income families), and the percentage of classes not taught by highly qualified teachers in such high poverty schools;

''(vii) the number and names of each school identified for school improvement, including schools identified under section 1116(c); and

''(viii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and percentage of schools in the State that did not make adequate yearly progress.

''(E) PERMISSIVE INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and secondary schools. Such information may include information regarding—

''(i) school attendance rates;

''(ii) average class size in each grade;

''(iii) academic achievement and gains in English proficiency of limited English proficient students;

''(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

''(v) the extent of parental participation in the schools;

''(vi) parental involvement activities;

''(vii) extended learning time programs such as after-school and summer programs;

''(viii) the percentage of students completing advanced placement courses;

''(ix) the percentage of students completing college preparatory curricula; and

''(x) student access to technology in school.

''(F) PROTECTION OF PUPIL RIGHTS.—In meeting the requirements of this section, States, local educational agencies, and schools shall comply with the provisions of section 445 of the General Education Provisions Act.

''(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

''(A) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this Act shall prepare and disseminate an annual local educational agency report card.

''(B) MINIMUM REQUIREMENTS.—The State shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(D) as applied to the local educational agency and each school served by the local educational agency, and—

''(i) in the case of a local educational agency—

''(I) the number and percentage of schools identified for school improvement and how long they have been so identified, including schools identified under section 1116(c); and

''(II) information that shows how students served by the local educational agency perform on the statewide assessment compared to students in the State as a whole; and

''(ii) in the case of a school—

''(I) whether the school has been identified for school improvement; and

''(II) information that shows how the school's students performed on the statewide assessment compared to students in the local educational agency and the State as a whole.

''(C) OTHER INFORMATION.—A local educational agency may include in its annual reports any other appropriate information whether or not such information is included in the annual State report.

''(D) DATA.—A local educational agency or school shall only include in its annual local educational agency report card data that is sufficient to yield statistically reliable information, as determined by the State, and does not reveal individually identifiable information about an individual student.

''(E) PUBLIC DISSEMINATION.—The local educational agency shall, not later than the beginning of the 2002–2003 school year, publicly disseminate the information described in this paragraph to all schools in the school district and to all parents of students attending those schools, and make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

''(3) PREEXISTING REPORT CARDS.—A State or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the State, may continue to use those reports for the purpose of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection.

''(4) ANNUAL STATE REPORT TO THE SECRETARY.—Each State receiving assistance under this Act shall report annually to the Secretary, and make widely available within the State—

''(A) beginning with school year 2001–2002, information on the State's progress in developing and implementing the assessments described in subsection (b)(3);

''(B) beginning not later than school year 2004–2005, information on the achievement of students on the assessments required by that section, including the disaggregated results for the categories of students identified in subsection (b)(2)(B)(v)(II);

''(C) the number and names of each school identified for school improvement, including schools identified under section 1116(c), the reason why each school was so identified, and the measures taken to address the performance problems of such schools; and

''(D) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student assessments (including disaggregated results) required under this section.

''(5) PARENTS RIGHT-TO-KNOW.—

''(A) QUALIFICATIONS.—A local educational agency that receives funds under this part shall provide and notify the parents of each student attending any school receiving funds under this part that the parents may request, and will be provided on request, information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

''(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

''(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

''(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

''(iv) Whether the child is provided services by a paraprofessional and the qualifications of such paraprofessional.

''(B) ADDITIONAL INFORMATION.—A school that receives funds under this part shall provide to parents information on the level of performance, of the individual student for whom they are the parent, in each of the State assessments as required under this part.

''(C) FORMAT.—The notice and information provided to parents shall be in an understandable and uniform format.

''(6) REPORT TO CONGRESS.—The Secretary shall report annually to Congress—

''(A) beginning with school year 2001–2002, information on the State's progress in developing and implementing the assessments described in subsection (b)(3);

''(B) beginning not later than school year 2004–2005, information on the achievement of students on the assessments described in subsection (b)(3), including the disaggregated results for the categories of students described in subsection (b)(2)(B)(v)(II);

''(C) in any year before the States begin to provide the information described in paragraph (B) to the Secretary, information on the results of student assessments (including disaggregated results) required under this section.

''(k) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

''(l) TECHNICAL ASSISTANCE.—The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality assessments, the setting of State performance standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

''(m) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the assessments and standards required under this section.''.

SEC. 112. LOCAL EDUCATIONAL AGENCY PLANS.

Section 1112 (20 U.S.C. 6312) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''the Goals'' and all that follows through ''section 14306'' and inserting ''the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Head Start Act, and other Acts, as appropriate''; and

(B) in paragraph (2), by striking ''14304'' and inserting ''5504'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(D) determine the literacy levels of first graders and their needs for interventions, including a description of how the agency will ensure that any such assessments—

''(i) are developmentally appropriate;

''(ii) use multiple measures to provide information about the variety of skills that research has identified as leading to early reading; and

''(iii) are administered to students in the language most likely to yield valid results;'';

(B) in paragraph (3), by inserting '', which strategy shall be coordinated with activities under title II if the local educational agency receives funds under title II'' before the semicolon;

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by striking ''programs, vocational'' and inserting ''programs and vocational''; and

(II) by striking '', and school-to-work transition programs''; and

(ii) in subparagraph (B)—

(I) by striking ''served under part C'' and all that follows through ''1994''; and

(II) by striking ''served under part D''; and

(D) by striking paragraph (9) and inserting the following:

''(9) where appropriate, a description of how the local educational agency will use funds under this part to support early childhood education programs under section 1120B;

''(10) a description of the strategy the local educational agency will use to implement effective parental involvement under section 1118;

''(11) a description of the process that will be used with respect to any school identified for school improvement or corrective action that is served by the local educational agency to determine the academic and other factors that have significantly impacted student achievement at the school; and

''(12) 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 programs;

''(3) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

''(4) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(5);

''(5) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;

''(6) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

''(7) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

''(8) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part;

''(9) comply with the requirements of section 1119 regarding professional development;

''(10) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under subpart 3 of part B of title V, and if the State is an Ed-Flex Partnership State, waivers under the Education Flexibility Partnership Act of 1999;

''(11) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

''(12) use the results of the student assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this title to determine whether or not all of the schools are making the annual progress necessary to ensure that all students will meet the State's proficient level of performance on the State assessments described in section 1111(b)(3) within 10 years of the date of enactment of the Better Education for Students and Teachers Act;

''(13) ensure that the results from the assessments required under section 1111 will be provided to parents and teachers as soon as is practicably possible after the test is taken, in a manner and form that is understandable and easily accessible to parents and teachers; and

''(14) make available 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 standards and developed or identified by the State.''; and

(4) in subsection (e)—

(A) in paragraph (1), by striking '', except that'' and all that follows through ''finally approved by the State educational agency''; and

(B) in paragraph (3)—

(i) by striking ''professional development''; and

(ii) by striking ''section 1119'' and inserting ''sections 1118 and 1119''.

SEC. 113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

Section 1113(b)(1) (20 U.S.C. 6313(b)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' after the semicolon;

(2) in subparagraph (C)(iii), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) designate and serve a school attendance area or school that is not an eligible school attendance area under subsection (a)(2), but that was an eligible school attendance area and was served in the fiscal year preceding the fiscal year for which the determination is made, but only for 1 additional fiscal year.''.

SEC. 114. SCHOOLWIDE PROGRAMS.

Section 1114 (20 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—A local educational agency may use funds under this part, together with other Federal, State, and local funds, to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families, for the initial year of the schoolwide program.''; and

(B) in paragraph (4)—

(i) by amending the heading to read as follows: ''EXEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS.—''; and

(ii) by adding at the end the following:

''(C) A school that chooses to use funds from such other programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the programs that were consolidated to support the schoolwide program.''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B)(vii), by striking '', if any, approved under title III of the Goals 2000: Educate America Act'';

(ii) in subparagraph (E), by striking '', such as family literacy services'' and inserting ''(including activities described in section 1118), such as family literacy services, in-school volunteer opportunities, or parent membership on school-based leadership or management teams.''; and

(iii) by adding at the end the following:

''(I) Coordination and integration of 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.''; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking ''Improving America's Schools Act of 1994'' and inserting ''Better Education for Students and Teachers Act'';

(II) in clause (iv), by inserting ''in a language the family can understand'' after ''assessment results'';

(III) in clause (vi), by striking ''and'' after the semicolon;

(IV) in clause (vii), by striking the period and inserting ''; and''; and

(V) by adding at the end the following:

''(viii) describes how the school will coordinate and collaborate with other agencies providing services to children and families, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''; and

(ii) in subparagraph (C)—

(I) in clause (i)(II), by striking ''Improving America's Schools Act of 1994'' and inserting ''Better Education for Students and Teachers Act''; and

(II) in clause (v), by striking ''the School-to-Work Opportunities Act of 1994''.

SEC. 115. TARGETED ASSISTANCE SCHOOLS.

Section 1115 (20 U.S.C. 6315) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(ii), by striking '', yet'' and all that follows through ''setting''; and

(B) in paragraph (2)—

(i) in subparagraph (B), insert ''or in early childhood education services under this title,'' after ''program,''; and

(ii) in subparagraph (C)(i), by striking ''under part D (or its predecessor authority)''; and

(2) in subsection (c)(1)—

(A) by amending subparagraph (G) to read as follows:

''(G) provide opportunities for professional development with resources provided under this part, and to the extent practicable, from other sources, for teachers, principals, administrators, paraprofessionals, pupil services personnel, and parents, who work with participating children in programs under this section or in the regular education program;'';

(B) in subparagraph (H), by striking '', such as family literacy services'' and inserting ''(including activities described in section 1118), such as family literacy services, in-school volunteer opportunities, or parent membership on school-based leadership or management teams; and''; 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 1115A (20 U.S.C. 6316) the following:

''SEC. 1115B. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

''(a) IN GENERAL.—If a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and—

''(1) becomes a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency shall allow such student to transfer to another public school or public charter school in the same State as the school where the criminal offense occurred, that is selected by the student's parent unless allowing such transfer is prohibited—

''(A) under the provisions of a State or local law; or

''(B) by a local educational agency policy that is approved by a local school board; or

''(2) the public school that the student attends and that receives assistance under this part has been designated as an unsafe public school, then the local educational agency may allow such student to transfer to another public school or public charter school in the same State as the school where the criminal offense occurred, that is selected by the student's parent.

''(b) STATE EDUCATIONAL AGENCY DETERMINATIONS.—

''(1) The State educational agency shall determine, based upon State law, what actions constitute a violent criminal offense for purposes of this section.

''(2) The State educational agency shall determine which schools in the State are unsafe public schools.

''(3) The term 'unsafe public schools' means a public school that has serious crime, violence, illegal drug, and discipline problems, as indicated by conditions that may include high rates of—

''(A) expulsions and suspensions of students from school;

''(B) referrals of students to alternative schools for disciplinary reasons, to special programs or schools for delinquent youth, or to juvenile court;

''(C) victimization of students or teachers by criminal acts, including robbery, assault and homicide;

''(D) enrolled students who are under court supervision for past criminal behavior;

''(E) possession, use, sale or distribution of illegal drugs;

''(F) enrolled students who are attending school while under the influence of illegal drugs or alcohol;

''(G) possession or use of guns or other weapons;

''(H) participation in youth gangs; or

''(I) crimes against property, such as theft or vandalism.

''(c) TRANSPORTATION COSTS.—The local educational agency that serves the public school in which the violent criminal offense occurred or that serves the designated unsafe public school may use funds provided under this part to provide transportation services or to pay the reasonable costs of transportation for the student to attend the school selected by the student's parent.

''(d) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

''(e) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).''.

SEC. 117. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

Section 1116 (20 U.S.C. 6317) is amended to read as follows:

''SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

''(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

''(1) use the State assessments described in the State plan;

''(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in sections 1111(b)(2) (B) and (D) toward enabling its students to meet the State's student performance standards described in the State plan;

''(3) provide the results of the local annual review to schools so that the schools, principals, teachers, and other staff in an instructionally useful manner can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards; and

''(4) annually review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement activities under section 1118, professional development activities under section 1119, and other activities assisted under this Act.

''(b) DESIGNATION OF DISTINGUISHED SCHOOLS.—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

''(c) SCHOOL IMPROVEMENT.—

''(1) SCHOOL IMPROVEMENT.—(A) Subject to subparagraph (B), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for any year, to make adequate yearly progress as defined in the State's plan under sections 1111(b)(2) (B) and (D).

''(B) Subparagraph (A) shall not apply to a school if almost every student in such school is meeting the State's proficient level of performance.

''(C) To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement under this subsection, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

''(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT.—(A) Before identifying an elementary school or a secondary school for school improvement under paragraph (1), for corrective action under paragraph (7), or for reconstitution under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based.

''(B) If the principal of a school proposed for identification under paragraph (1), (7), or (8) believes that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

''(C) Not later than 30 days after a local educational agency makes an initial determination concerning identifying a school under paragraph (1), (7), or (8), the local educational agency shall make public a final determination on the status of the school.

''(3) SCHOOL PLAN.—(A) Each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, the local school board, and other outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

''(i) incorporate scientifically based research strategies that strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement and may include a strategy for the implementation of a comprehensive school reform model that meets each of the components described in section 1706(a);

''(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 1111(b)(2)(B)(v)(II) and enrolled in the school will meet the State's proficient level of performance on the State assessment described in section 1111(b)(3) within 10 years after the date of enactment of the Better Education for Students and Teachers Act;

''(iii) provide an assurance that the school will reserve not less than 10 percent of the funds made available to the school under this part for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that—

''(I) directly addresses the academic performance problem that caused the school to be identified for school improvement; and

''(II) meets the requirements for professional development activities under section 1119;

''(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

''(v) establish specific annual, objective goals for continuous and significant progress by each group of students specified in section 1111 (b)(2)(B)(v)(II) and enrolled in the school that will ensure that all such groups of students will make continuous and significant progress towards meeting the goal of all students reaching the State's proficient level of performance on the State assessment described in section 1111(b)(3) within 10 years after the date of enactment of the Better Education for Students and Teachers Act;

''(vi) identify how the school will provide written notification about the identification to the parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand;

''(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4); and

''(viii) include strategies to promote effective parental involvement in the school.

''(B) The local educational agency may condition approval of a school plan on inclusion of 1 or more of the corrective actions specified in paragraph (7)(D)(ii).

''(C) A school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the school year following the school year in which the school was identified for school improvement.

''(D) The local educational agency, within 45 days after receiving a school plan, shall—

''(i) establish a peer-review process to assist with review of a school plan prepared by a school served by the local educational agency; and

''(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

''(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall provide technical assistance as the school develops and implements the school plan.

''(B) Such technical assistance—

''(i) shall include assistance in analyzing data from the assessments required under section 1111(b)(3), and other samples of student work, to identify and address instructional problems 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 effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

''(iii) shall include assistance in analyzing and revising the school's budget so that the school resources are more effectively allocated for the activities most likely to increase student performance and to remove the school from school improvement status; and

''(iv) may be provided—

''(I) by the local educational agency, through mechanisms authorized under section 1117; or

''(II) by the State educational agency, an institution of higher education (in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve performance.

''(C) Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

''(5) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION.—In the case of any school served under this part that fails to make adequate yearly progress, as defined by the State under sections 1111(b)(2) (B) and (D), at the end of the first year after the school year

for which the school was identified under paragraph (1), the local educational agency serving such school—

''(A) shall provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1), unless—

''(i) such an option is prohibited by State law or local law, which includes school board approved local educational agency policy; or

''(ii) the local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide that option to all students in the school who request the option, in which case the local educational agency shall permit as many students as possible (selected by the agency on an equitable basis and giving priority to the lowest achieving students) to make such a transfer, after giving notice to the parents of affected children that it is not possible, consistent with State and local law, to accommodate the transfer request of every student;

''(B) may identify the school for, and take, corrective action under paragraph (7); and

''(C) shall continue to provide technical assistance while instituting any corrective action.

''(6) NOTIFICATION TO PARENTS.—A local educational agency shall promptly provide (in a format and, to the extent practicable, in a language the parents can understand) the parents of each student in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for reconstitution under paragraph (8)—

''(A) an explanation of what the identification means, and how the school compares in terms of academic performance to other elementary schools or secondary schools served by the State educational agency and the local educational agency involved;

''(B) the reasons for the identification;

''(C) an explanation of what the school is doing to address the problem of low performance;

''(D) an explanation of what the State educational agency or local educational agency is doing to help the school address the performance problem;

''(E) an explanation of how parents described in this paragraph can become involved in addressing the academic issues that caused the school to be identified; and

''(F) when the school is identified for corrective action under paragraph (7) or for reconstitution under paragraph (8), an explanation of the parents' option to transfer their child to another public school (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental services for the child, in accordance with those paragraphs.

''(7) CORRECTIVE ACTION.—(A) In this subsection, the term 'corrective action' means action, consistent with State and local law, that—

''(i) substantially and directly responds to—

''(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

''(II) any underlying staffing, curriculum, or other problem in the school; and

''(ii) is designed to increase substantially the likelihood that students enrolled in the school identified for corrective action will perform at the State's proficient and advanced levels of performance on the State assessment described in section 1111(b)(3).

''(B) In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (F) and paragraph (8).

''(C) In the case of any school served by the local educational agency under this part that fails to make adequate yearly progress, as defined by the State under sections 1111(b)(2) (B) and (D), at the end of the second year after the school year for which the school was identified under paragraph (1), the local educational agency shall—

''(i)(I) provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1); and

''(II) if all public schools in the local educational agency to which children may transfer are identified under paragraph (1) or this paragraph, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for the transfer of as many of those children as possible, selected by the agency on an equitable basis;

''(ii) make supplemental educational services available, in accordance with subsection (f), to children who remain in the school;

''(iii) identify the school for corrective action and take at least one of the following corrective actions:

''(I) Make alternative governance arrangements, such as reopening the school as a public charter school.

''(II) Replace the relevant school staff.

''(III) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is tied to scientifically based research and offers substantial promise of improving educational performance for low-performing students; and

''(iv) continue to provide technical assistance to the school.

''(D) A local educational agency may delay, for a period not to exceed one year, implementation of corrective action only if the school's failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

''(E) The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school to the public through such means as the Internet, the media, and public agencies.

''(8) RECONSTITUTION.—(A) If, after one year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress then the local educational agency shall—

''(i) provide all students enrolled in the school with the option to transfer to another public school in accordance with paragraph (7)(C)(i);

''(ii) make supplemental educational services available, in accordance with subsection (f), to children who remain in the school; and

''(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

''(B)(i) Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement at least one of the following alternative governance arrangements for the school, consistent with State law:

''(I) Reopening the school as a public charter school.

''(II) Replacing all or most of the school staff.

''(III) Turning the operation of the school over to another entity, such as a private contractor, with a demonstrated record of success.

''(IV) Turning the operation of the school over to the State, if agreed to by the State.

''(V) Any other major restructuring of the school's governance arrangement.

''(ii) A rural local agency, as described in section 5231(b), may apply to the Secretary for a waiver of the requirements of this subparagraph if the agency submits to the Secretary an alternative plan for making significant changes to improve student performance in the school, such as providing an academically focused after school program for all students, changing school administration, or implementing a research based, proven effective, whole school reform program. The Secretary shall approve or reject an application for a waiver under this subparagraph not later than 30 days after the submission of information required by the Secretary to apply for the waiver. If the Secretary fails to make a determination with respect to the waiver application within such 30 days, the application shall be considered approved by the Secretary.

''(C) The local educational agency shall provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies, shall provide the teachers and parents an adequate opportunity to comment before taking any action under those subparagraphs and to participate in developing any plan under subparagraph (A)(iii).

''(9) TRANSPORTATION.—In any case described in paragraph (7)(C), the local educational agency—

''(A) shall provide, or shall pay for the provision of, transportation for the student to the school the child attends, notwithstanding subsection (f)(1)(C)(ii); and

''(B) may use not more than a total of 15 percent of the local educational agency's allocation under this part for a fiscal year for that transportation or for supplemental services under subsection (f).

''(10) DURATION OF RECONSTITUTION.—If any school identified for reconstitution under paragraph (8) makes adequate yearly progress for two consecutive years, the local educational agency need no longer subject the school to corrective action or identify the school as in need of improvement for the succeeding school year.

''(11) SPECIAL RULES.—A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school, and shall continue to provide or provide for transportation for the child to attend that school to the extent required by paragraph (9)(B) until the child leaves that school.

''(12) SCHOOLS PREVIOUSLY IDENTIFIED FOR SCHOOL IMPROVEMENT OR CORRECTIVE ACTION.—

''(A) SCHOOL IMPROVEMENT.—(i) Except as provided in clauses (ii) and (iii), any school that was in school improvement status under this subsection on the day preceding the date of enactment of the Better Education for Students and Teachers Act shall be treated by the local educational agency, at the beginning of the next school year following such day, as a school that is in the first year of school improvement under paragraph (1).

''(ii) Any school that was in school improvement status under this subsection for the two school years preceding the date of enactment of the Better Education for Students and Teachers Act shall be treated by the local educational agency, at the beginning of the next school year following such day, as a school described in paragraph (5).

''(iii) Any school described in clause (ii) that fails to make adequate yearly progress for the first full school year following the date of enactment of the Better Education for Students and Teachers Act shall be subject to paragraph (7)(C) at the beginning of the next school year.

''(iv) Any school described in clause (iii) that fails to make adequate yearly progress for the second full school year following the date of enactment of the Better Education for Students and Teachers Act shall be subject to paragraph (8) at the beginning of the next school year.

''(B) CORRECTIVE ACTION.—(i) Any school that was in corrective action status under this subsection on the day preceding the date of enactment of the Better Education for Students and Teachers Act, and that fails to make adequate yearly progress for the school year following such date, shall be subject to paragraph (7)(C) at the beginning of the next school year.

''(ii) Any school described in clause (i) that fails to make adequate yearly progress for the second school year following such date shall be subject to paragraph (8) at the beginning of the next school year.

''(13) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

''(A) make technical assistance under section 1117 available to all schools identified for school improvement and corrective action under this subsection, to the extent possible with funds reserved under section 1003;

''(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines appropriate and in compliance with State law;

''(C) for each school in the State that 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)(8) as significantly impacting student achievement; and

''(D) if a school in the State is identified for school improvement or corrective action, encourage appropriate State and local agencies and community groups to develop a consensus plan to address any factors that significantly impacted student achievement.

''(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

''(1) IN GENERAL.—A State educational agency shall review annually—

''(A) the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in sections 1111(b)(2) (B) 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 progress as defined in sections 1111(b)(2)(B) and (D), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117(c).

''(3) IDENTIFICATION.—(A) A State educational agency shall identify for improvement any local educational agency that for 2 consecutive years, is not making adequate progress as defined in sections 1111(b)(2) (B) 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 under this part.

''(B) Before identifying a local educational agency for improvement under this paragraph, the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

''(C) Not later than 30 days after a State educational agency makes an initial determination under subparagraph (A), the State educational agency shall make public a final determination regarding the improvement status of the local educational agency.

''(4) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, revise and implement a local educational agency plan as described under section 1112. The plan shall—

''(i) include specific State-determined yearly progress requirements in subjects and grades to ensure that all students will make continuous 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 a determination of why the local educational agency's prior plan failed to bring about increased student achievement and performance;

''(iii) incorporate scientifically based research strategies that strengthen the core academic program in the local educational agency;

''(iv) address the professional development needs of the instructional staff by committing to spend not less than 10 percent of the funds received by the local educational agency under this part during 1 fiscal year for professional development (including funds reserved for professional development under subsection (c)(3)(A)(iii)), which funds shall supplement and not supplant professional development that instructional staff would otherwise receive, and which professional development shall increase the content knowledge of teachers and build the capacity of the teachers to align classroom instruction with challenging content standards and to bring all students to proficient or advanced levels of performance as determined by the State;

''(v) identify specific goals and objectives the local educational agency will undertake for making adequate yearly progress, which goals and objectives shall be consistent with State standards;

''(vi) identify how the local educational agency will provide written notification regarding the identification to parents of students enrolled in elementary schools and secondary schools served by the local educational agency in a format, and to the extent practicable, in a language that the parents can understand;

''(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including technical assistance to be provided by the State educational agency under paragraph (5); and

''(viii) include strategies to promote effective parental involvement in the school.

''(5) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance, as authorized under section 1117, to better enable the local educational agency to—

''(i) develop and implement the local educational agency's revised plan; and

''(ii) work with schools needing improvement.

''(B) Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies tied to scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 1118 and the professional development activities described in section 1119.'';

''(6) CORRECTIVE ACTION.—(A)(i) Except as provided in subparagraph (E), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3), but shall take such action, consistent with State and local law, with respect to any local educational agency that continues to fail to make adequate progress at the end of the second year following identification under paragraph (3).

''(ii) The State educational agency shall continue to provide technical assistance while implementing any corrective action.

''(B) Consistent with State and local law, in the case of a local educational agency subject to corrective action under this paragraph, the State educational agency shall not take less than 1 of the following corrective actions:

''(i) Instituting and fully implementing a new curriculum that is based on State and local standards, including appropriate professional development tied to scientifically based research for all relevant staff that offers substantial promise of improving educational achievement for low-performing students.

''(ii) Restructuring or abolishing the local educational agency.

''(iii) Reconstituting school district personnel.

''(iv) Removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools.

''(v) Appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

''(vi) Deferring, reducing, or withholding funds.

''(C) HEARING.—Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

''(D) NOTIFICATION TO PARENTS.—The State educational agency shall publish, and disseminate to parents and the public, any corrective action the State educational agency takes under this paragraph through a widely read or distributed medium.

''(E) DELAY.—A State educational agency may delay, for a period not to exceed one year, implementation of corrective action under this paragraph only if the local educational agency's failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

''(F) WAIVERS.—The State educational agency shall review any waivers approved prior to the date of enactment of the Better Education for Students and Teachers Act for a local educational agency designated for improvement or corrective action and shall terminate any waiver approved by the State under the Educational Flexibility Partnership Act of 1999 if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping the local educational agency make yearly progress to meet the objectives and specific goals described in the local educational agency's improvement plan.

''(7) SPECIAL RULES.—If a local educational agency makes adequate progress toward meeting the State's standards for two consecutive years following identification under paragraph (6), the State educational agency need no longer subject the local educational agency to corrective action for the succeeding school year.

''(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

''(f) SUPPLEMENTAL SERVICES.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—In the case of any school described in subsection (c)(7)(C) or

(c)(8)(A), the local educational agency serving such school shall, subject to subparagraphs (B) through (E), arrange for the provision of supplemental educational services to children in the school whose parents request those services, from providers approved for that purpose by the State educational agency and selected by the parents.

''(B) MAXIMUM ALLOCATION.—The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection is equal to the lesser of—

''(i) the amount of the agency's allocation under subpart 2 of this part, divided by the number of children from low-income families enrolled in the agency's schools; or

''(ii) the actual costs of the supplemental educational services received by the child.

''(C) FINANCIAL OBLIGATION OF LEA.—The local educational agency shall enter into agreements with such approved providers to provide services under this subsection to all children whose parents request the services, except that—

''(i) the local educational agency may use not more than a total of 15 percent of its allocation under this part for any fiscal year to pay for services under this subsection or to provide or provide for transportation under subsection (c)(9); and

''(ii) the total amount described in clause (i) is the maximum amount the local educational agency is required to spend under this part on those services.

''(D) INSUFFICIENT FUNDS.—If the amount of funds described in subparagraph (C) available to provide services under this subsection is insufficient to provide those services to each child whose parents request the services, then the local educational agency shall give priority to providing the services to the lowest-achieving children.

''(E) PROHIBITION.—A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under this part to a school described in subsection (c)(7)(C) or (c)(8)(A).

''(2) ADDITIONAL LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational agency subject to this subsection shall—

''(A) provide annual notice to parents (in a format and, to the extent practicable, in a language the parents can understand) of—

''(i) the availability of services under this subsection;

''(ii) the eligible providers of those services that are within the school district served by the agency or whose services are reasonably available in neighboring school districts; and

''(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

''(B) provide annual notice to potential providers of supplemental services in the school district of the agency of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be a provider of those services;

''(C) if requested, assist parents to choose a provider from the list of approved providers maintained by the State;

''(D) apply fair and equitable procedures for serving students if spaces at eligible providers are not sufficient to serve all students;

''(E) enter into an agreement with each selected provider that includes a statement for each child, developed with the parents of the child and the provider, of specific performance goals for the student, how the student's progress will be measured, and how the parents and the child's teachers will be regularly informed of the child's progress and that, in the case of a child with disabilities, is consistent with the child's individualized education program under section 614(d) of the Individuals with Disabilities Education Act; and

''(F) not disclose to the public the identity of any child eligible for, or receiving, supplemental services under this subsection without the written permission of the parents of the child.

''(3) ADDITIONAL STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—Each State educational agency shall, in consultation with local educational agencies, parents, teachers, and other interested members of the public—

''(A) promote maximum participation under this subsection by service providers to ensure, to the extent practicable, that parents have as many choices of those providers as possible;

''(B) develop and apply objective criteria to potential service providers that are based on demonstrated effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State content and student performance standards adopted under section 1111(b)(1);

''(C) maintain an updated list of approved service providers in school districts served by local educational agencies subject to this subsection, from which parents may select;

''(D) develop and implement standards and techniques for monitoring, and publicly reporting on, the quality and effectiveness of the services offered by service providers, and for withdrawing approval from providers that fail, for two consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

''(E) ensure that all approved providers meet applicable health and safety codes.

''(4) WAIVER.—A State educational agency may waive the requirements of this subsection for a local educational agency that demonstrates to the State educational agency's satisfaction that its list of approved service providers does not include any providers whose services are reasonably available geographically to children in that local educational agency.

''(5) SPECIAL RULE.—If State law prohibits a State educational agency from carrying out any of its responsibilities under this subsection, each local educational agency in the State shall carry out those prohibited responsibilities with respect to those who provide, or seek approval to provide, services to students who attend schools served by the local educational agency.

''(6) DEFINITION.—In this subsection, the term 'supplemental educational services' means tutoring and other supplemental academic enrichment services that—

''(A) are of high quality, research-based, focused on academic content, and directed exclusively at raising student proficiency in meeting the State's challenging content and student performance standards; and

''(B) are provided outside of regular school hours.

''(g) OTHER AGENCIES.—If a school is identified for school improvement, the Secretary may notify other relevant Federal agencies regarding the academic and other factors determined by the State educational agency under section 1111(b)(8) 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 adding at the end the following:

''(3) PRIORITIES.—In carrying out this section, a State educational agency shall—

''(A) first, provide support and assistance to local educational agencies subject to corrective action described in section 1116 and assist schools, in accordance with section 1116, for which a local educational agency has failed to carry out its responsibilities under section 1116;

''(B) second, provide support and assistance to other local educational agencies and schools identified as in need of improvement under section 1116; and

''(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need support and assistance in order to achieve the purpose of this part.'';

(2) in subsection (b), by striking ''the comprehensive regional technical assistance centers under part A of title XIII and'' and inserting ''comprehensive regional technical assistance centers, and''; and

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) APPROACHES.—

''(A) IN GENERAL.—In order to achieve the purpose described in subsection (a), each such system shall give priority to using funds made available to carry out this section—

''(i) to establish school support teams for assignment to and working in schools in the State that are described in subsection (a)(3)(A); and

''(ii) to provide such support as the State educational agency determines to be necessary and available to assure the effectiveness of such teams.

''(B) COMPOSITION.—Each school support team shall be composed of persons knowledgeable about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

''(i) teachers;

''(ii) pupil services personnel;

''(iii) parents;

''(iv) distinguished teachers or principals;

''(v) representatives of institutions of higher education;

''(vi) regional educational laboratories or research centers;

''(vii) outside consultant groups; or

''(viii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

''(C) FUNCTIONS.—Each school support team assigned to a school under this section shall—

''(i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performances in that school;

''(ii) collaborate, with school staff and the local educational agency serving the school, in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 1111(b)(2)(B);

''(iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations (including the need for additional resources, professional development, or compensation) to the school, the local educational agency, and, where appropriate, the State educational agency; and

''(iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance and resources that are needed by the school or the school support team.

''(D) CONTINUATION OF ASSISTANCE.—After 1 school year, the school support team may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''part which'' and all that follows through the period and inserting ''part.''; and

(ii) in subparagraph (C)—

(I) by striking ''and may'' and inserting ''(and may''; and

(II) by striking ''exemplary performance'' and inserting ''exemplary performance)''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''EDUCATORS'' and inserting ''TEACHERS AND PRINCIPALS'';

(ii) by amending subparagraph (A) to read as follows:

''(A) The State may also recognize and provide financial awards to teachers or principals in a school described in paragraph (2) whose students consistently make significant gains in academic achievement.'';

(iii) in subparagraph (B), by striking ''educators'' and inserting ''teachers or principals''; and

(iv) by striking subparagraph (C).

SEC. 118A. 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 informed evaluations of student performance.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to States and local educational agencies to enable the States and local educational agencies to carry out the purpose 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 subsection (d) shall use the grant funds received under this section to collaborate with institutions of higher education or other research institutions, experts on curriculum, teachers, administrators, parents, and assessment developers for the purpose of developing enhanced assessments that are aligned with standards and curriculum, are valid and reliable for the purposes for which the assessments are to be used, are grade-appropriate, include multiple measures of student achievement from multiple sources, and otherwise meet the requirements of section 1111(b)(3). Such assessments shall strive to better measure higher order thinking skills, understanding, analytical ability, and learning over time through the development of 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 or local educational agency in improving the quality and fairness of assessments with respect to the purpose described in subsection (a).''.

SEC. 119. PARENTAL INVOLVEMENT.

(a) IN GENERAL.—Section 1118 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)(B), by inserting ''activities to improve student achievement and student and school performance'' after ''involvement'';

(2) in subsection (b)(1)—

(A) in the first sentence, by inserting ''(in a language parents can understand)'' after ''distribute''; and

(B) in the second sentence, insert ''shall be made available to the local community and'' after ''Such policy'';

(3) in subsection (e)—

(A) in paragraph (1), by striking ''participating parents in such areas as understanding the National Education Goals,'' and inserting ''parents of children served by the school or local educational agency, as appropriate, in understanding'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(C) using technology, as appropriate, to foster parental involvement;'';

(C) in paragraph (14), by striking ''and'' after the semicolon;

(D) by amending paragraph (15) to read as follows:

''(15) may establish a school district wide parent advisory council to advise the school and local educational agency on all matters related to parental involvement in programs supported under this section; and''; and

(E) by adding at the end the following:

''(16) shall provide such other reasonable support for parental involvement activities under this section as parents may request, which may include emerging technologies.'';

(4) in subsection (f), by striking ''or with'' and inserting '', parents of migratory children, or parents with''; and

(5) by striking subsection (g) and inserting the following:

''(g) INFORMATION FROM PARENTAL INFORMATION AND RESOURCE CENTERS.—In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each school or local educational agency that receives assistance under this part and is located in the State, shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

''(h) REVIEW.—The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.''.

(b) GRANTS.—Section 1118(a)(3) (20 U.S.C. 6319(a)(3)) is amended by adding at the end the following:

''(C)(i)(I) The Secretary is authorized to award grants to local educational agencies to enable the local educational agencies to supplement the implementation of the provisions of this section and to allow for the expansion of other recognized and proven initiatives and policies to improve student achievement through the involvement of parents.

''(II) Each local educational agency desiring a grant under this subparagraph shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(ii) Each application submitted under clause (i)(II) shall describe the activities to be undertaken using funds received under this subparagraph, shall set forth the process by which the local educational agency will annually evaluate the effectiveness of the agency's activities in improving student achievement and increasing parental involvement shall include an assurance that the local educational agency will notify parents of the option to transfer their child to another public school under section 1116(c)(7) or to obtain supplemental services for their child under section 1116(c)(8), in accordance with those sections.

''(iii) Each grant under this subparagraph shall be awarded for a 5-year period.

''(iv) The Secretary shall conduct a review of the activities carried out by each local educational agency using funds received under this subparagraph to determine whether the local educational agency demonstrates improvement in student achievement and an increase in parental involvement.

''(v) The Secretary shall terminate grants to a local educational agency under this subparagraph after the fourth year if the Secretary determines that the evaluations conducted by such agency and the reviews conducted by the Secretary show no improvement in the local educational agency's student achievement and no increase in such agency's parental involvement.

''(vi) There are authorized to be appropriated to carry out this subparagraph $100,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.''.

SEC. 120. PROFESSIONAL DEVELOPMENT.

Section 1119 (20 U.S.C. 6320) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

''(A) support professional development activities that give teachers, principals, administrators, paraprofessionals, pupil services personnel, and parents the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards;'';

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (D) through (G), respectively;

(C) by inserting after subparagraph (A) the following:

''(B) advance teacher understanding of effective instructional strategies, based on research for improving student achievement, at a minimum in reading or language arts and mathematics;

''(C) be of sufficient intensity and duration (not to include 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teacher's performance in the classroom, except that this subparagraph shall not apply to an activity if such activity is 1 component of a long-term comprehensive professional development plan established by the teacher and the teacher's supervisor based upon an assessment of the needs of the teacher, the needs of students, and the needs of the local educational agency;'';

(D) in subparagraph (E) (as so redesignated), by striking ''title III of the Goals 2000: Educate America Act,'';

(E) in subparagraph (F) (as so redesignated), by striking ''and'' after the semicolon;

(F) in subparagraph (G) (as so redesignated), by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

''(H) to the extent appropriate, provide training for teachers in the use of technology and the applications of technology that are effectively used—

''(i) in the classroom to improve teaching and learning in the curriculum; and

''(ii) in academic content areas in which the teachers provide instruction;

''(I) be regularly evaluated for their impact on increased teacher effectiveness and improved student performance and achievement, with the findings of such evaluations used to improve the quality of professional development; and

''(J) provide assistance to teachers for the purpose of meeting certification, licensing, or other requirements needed to become highly qualified as defined in section 2102(4).'';

(2) in subsection (g), by striking ''title III of the Goals 2000: Educate America Act,'' and inserting ''other Acts''; and

(3) by adding at the end the following:

''(j) REQUIREMENT.—Each local educational agency that receives funds under this part and serves a school in which 50 percent or more of the children are from low income families shall use not less than 5 percent of the funds for each of fiscal years 2002 and fiscal year 2003, and not less than 10 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified within 4 years.''.

SEC. 120A. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) AMENDMENTS.—Section 1120 (20 U.S.C. 6321) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''that address their needs, and shall ensure that teachers and families of such children participate, on an equitable basis, in services and activities under sections 1118 and 1119'' before the period;

(B) in paragraph (3), by inserting ''and shall be provided in a timely manner'' before the period; and

(C) in paragraph (4), insert ''as determined by the local educational agency each year or every 2 years'' before the period;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking ''and where'' and inserting '', where, and by whom'';

(ii) by amending subparagraph (D) to read as follows:

''(D) how the services will be assessed and how the results of that assessment will be used to improve those services;'';

(iii) in subparagraph (E), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(F) how and when the local educational agency will make decisions about the delivery of services to eligible private school children, including a thorough consideration and analysis of the views of private school officials regarding the provision of contract services through potential third party providers, and if the local educational agency disagrees with the views of the private school officials on such provision of services, the local educational agency shall provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to so provide such services.''; and

(B) by adding at the end the following:

''(4) CONSULTATION.—Each local educational agency shall provide to the State educational agency, and maintain in the local educational agency's records, a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If a private school declines in writing to have eligible children in the private school participate in services provided under this section, the local educational agency is not required to further consult with the private school officials or to document the local educational agency's consultation with the private school officials until the private school officials request in writing such consultation. The local educational agency shall inform the private school each year of the opportunity for eligible children to participate in services provided under this section.

''(5) COMPLIANCE.—A private school official shall have the right to appeal to the State educational agency the decision of a local educational agency as to whether consultation provided for in this section was meaningful and timely, and whether due consideration was given to the views of the private school official. If the private school official wishes to appeal the decision, the basis of the claim of noncompliance with this section by the local educational agencies shall be provided to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.'';

(3) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(4) by inserting after subsection (b) the following:

''(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS.—

''(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of private school children, ages 5 through 17, who are low-income by—

''(A) using the same measure of low-income used to count public school children;

''(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable; or

''(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area.

''(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 8.'';

(5) in subsection (e) (as so redesignated),

(A) in paragraph (2), by striking ''14505 and 14506'' and inserting ''8 and 9'';

(B) by redesignating paragraphs (1) and (2) (as so amended) as subparagraphs (A) and (B), respectively;

(C) by striking ''If a'' and inserting the following:

''(1) IN GENERAL.—If a''; and

(D) by adding at the end the following:

''(2) DETERMINATION.—In making the determination under paragraph (1), the Secretary shall consider 1 or more factors, including the quality, size, scope, or location of the program, or the opportunity of eligible children to participate in the program.''; and

(6) by repealing subsection (f) (as so redesignated).

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(4) shall take effect on September 30, 2003.

(c) CONFORMING AMENDMENT.—Section 1120A(a) (20 U.S.C. 6322(a)) is amended by striking ''14501 of this Act'' and inserting ''4''.

SEC. 120B. EARLY CHILDHOOD EDUCATION.

Section 1120B (20 U.S.C. 6321) is amended—

(1) by amending the section heading to read as follows:

''SEC. 1120B. COORDINATION REQUIREMENTS; EARLY CHILDHOOD EDUCATION SERVICES.'';

(2) in subsection (c), by striking ''Head Start Act Amendments of 1994'' and inserting ''Head Start Amendments of 1998''; and

(3) by adding at the end the following:

''(d) EARLY CHILDHOOD SERVICES.—A local educational agency may use funds received under this part to provide preschool services—

''(1) directly to eligible preschool children in all or part of its school district;

''(2) through any school participating in the local educational agency's program under this part; or

''(3) through a contract with a local Head Start agency, an eligible entity operating an Even Start program, a State-funded preschool program, or a comparable public early childhood development program.

''(e) EARLY CHILDHOOD EDUCATION PROGRAMS.—Early childhood education programs operated with funds provided under this part may be operated and funded jointly with Even Start programs under part B of this title, Head Start programs, or State-funded preschool programs. Early childhood education programs funded under this part shall—

''(1) focus on the developmental needs of participating children, including their social, cognitive, and language-development needs, and use scientifically based research approaches that build on competencies that lead to school success, particularly in language and literacy development and in reading;

''(2) teach children to understand and use language in order to communicate for various purposes;

''(3) enable children to develop and demonstrate an appreciation of books; and

''(4) in the case of children with limited English proficiency, enable the children to progress toward acquisition of the English language.''.

SEC. 120C. LIMITATIONS ON FUNDS.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by inserting after section 1120B (20 U.S.C. 6323) the following:

''SEC. 1120C. LIMITATION ON FUNDS.

''A local educational agency may not use funds received under this subpart for—

''(1) purchase or lease of privately owned facilities;

''(2) purchase or provision of facilities maintenance, gardening, landscaping, or janitorial services, or the payment of utility costs;

''(3) the construction of facilities;

''(4) the acquisition of real property;

''(5) the payment of travel and attendance costs at conferences or other meetings other than travel and attendance necessary for professional development; or

''(6) the purchase or lease of vehicles.''.

SEC. 120D. ALLOCATIONS.

Subpart 2 of part A of title I (20 U.S.C. 6331 et seq.) is amended to read as follows:

''Subpart 2—Allocations

''SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

''(a) RESERVATION OF FUNDS.—From the amount appropriated for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

''(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

''(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c).

''(b) ASSISTANCE TO THE OUTLYING AREAS.—

''(1) IN GENERAL.—From amounts made available under subsection (a)(1) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas.

''(2) COMPETITIVE GRANTS.—

''(A) IN GENERAL.—For fiscal year 2002 and each of the 6 succeeding fiscal years, the Secretary shall reserve $5,000,000 from the amounts made available under subsection (a)(1) to award grants, on a competitive basis, to local educational agencies in the Freely Associated States. The Secretary shall award such grants taking into consideration the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

''(B) USES.—Except as provided in subparagraph (C), grant funds awarded under this paragraph only may be used—

''(i) for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

''(ii) to provide direct educational services.

''(C) ADMINISTRATIVE COSTS.—The Secretary may provide 5 percent of the amount made available for grants under this paragraph to the Pacific Region Educational Laboratory to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

''(c) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

''(1) IN GENERAL.—The amount reserved for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as

determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

''(A) Indian children on reservations served by elementary schools and secondary schools for Indian children operated or supported by the Department of the Interior; and

''(B) out-of-State Indian children in elementary schools and secondary schools in local educational agencies under special contracts with the Department of the Interior.

''(2) PAYMENTS.—From the amount reserved for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1)(B). The amount of such payment may not exceed, for each such child, the greater of—

''(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

''(B) 48 percent of such expenditure in the United States.

''SEC. 1122. AMOUNTS FOR BASIC GRANTS, CONCENTRATION GRANTS, AND TARGETED GRANTS.

''(a) IN GENERAL.—For each of the fiscal years 2002 through 2008—

''(1) the amount appropriated to carry out this part that is less than or equal to the amount appropriated to carry out section 1124 for fiscal year 2001, shall be allocated in accordance with section 1124;

''(2) the amount appropriated to carry out this part that is not used under paragraph (1) that equals the amount appropriated to carry out section 1124A for fiscal year 2001, shall be allocated in accordance with section 1124A; and

''(3) any amount appropriated to carry out this part for the fiscal year for which the determination is made that is not used to carry out paragraphs (1) and (2) shall be allocated in accordance with section 1125.

''(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

''(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d).

''(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as the allocations were reduced.

''(c) HOLD-HARMLESS AMOUNTS.—

''(1) IN GENERAL.—For each fiscal year the amount made available to each local educational agency under each of sections 1124, 1124A, and 1125 shall be not less than:

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the amount made available for each local educational agency under sections 1124 and 1124A for the fiscal year shall not be 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, respectively; 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 law, the Secretary shall not take into consideration the hold harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

''(C) POPULATION UPDATES.—

''(i) IN GENERAL.—Notwithstanding paragraph (4), in fiscal year 2001 and each subsequent year, the Secretary shall use updated data, for purposes of carrying out section 1124, on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable.

''(ii) INAPPROPRIATE OR UNRELIABLE DATA.—If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this subparagraph are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall—

''(I) publicly disclose their reasons;

''(II) provide an opportunity for States to submit updated data on the number of children described in clause (i); and

''(III) review the data and, if the data are appropriate and reliable, use the data, for the purposes of section 1124, to determine the number of children described in clause (i).

''(iii) CRITERIA OF POVERTY.—In determining the families that are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

''(iv) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for each fiscal year such sums as may be necessary to update the data described in clause (i).

''(2) SPECIAL RULES.—If sufficient funds are appropriated, the hold-harmless amounts described in paragraph (1) shall be paid to all local educational agencies that received grants under section 1124, 1124A, or 1125 for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria provided in section 1124(b), 1124A(a)(1)(A), or 1125(a), respectively, except that a local educational agency that does not meet such minimum eligibility criteria for 5 consecutive years shall no longer be eligible to receive a hold-harmless amount under this subsection.

''(3) COUNTY CALCULATION BASIS.—For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-homeless percentages in paragraphs (1) and (2) to counties, and if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that receive funds for the fiscal year in excess of the hold-harmless amounts specified in this paragraph.

''(d) RATABLE REDUCTIONS.—

''(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.

''(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

''SEC. 1123. DEFINITIONS.

''In this subpart:

''(1) FREELY ASSOCIATED STATES.—The term 'Freely Associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(2) OUTLYING AREAS.—The term 'outlying areas' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) AMOUNT OF GRANTS.—

''(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

''(A) the number of children counted under subsection (c); and

''(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, and not more than 48 percent, of the average per-pupil expenditure in the United States.

''(2) CALCULATION OF GRANTS.—

''(A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

''(i) the Secretary and the Secretary of Commerce shall publicly disclose the reasons for their determination in detail; and

''(ii) paragraph (3) shall apply.

''(B) ALLOCATIONS TO LARGE AND SMALL LOCAL EDUCATIONAL AGENCIES.—

''(i) LARGE LOCAL EDUCATIONAL AGENCIES.—In the case of an allocation under this section to a large local educational agency, the amount of the grant under this section for the large local educational agency shall be the amount determined under paragraph (1).

''(ii) SMALL LOCAL EDUCATIONAL AGENCIES.—

''(I) IN GENERAL.—In the case of an allocation under this section to a small local educational agency the State educational agency may—

''(aa) distribute grants under this section in amounts determined by the Secretary under paragraph (1); or

''(bb) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small local educational agencies.

''(II) ALTERNATIVE METHOD.—An alternative method under subclause (I)(bb) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the minimum number of children to qualify described in subsection (b).

''(III) APPEAL.—If a small local educational agency is dissatisfied with the determination of the amount of its grant by the State educational agency under subclause (I)(bb), the small local educational agency may appeal the determination to the Secretary, who shall respond within 45 days of receiving the appeal.

''(iii) DEFINITIONS.—In this subparagraph—

''(I) the term 'large local educational agency' means a local educational agency serving a school district with a total population of 20,000 or more; and

''(II) the term 'small local educational agency' means a local educational agency serving a school district with a total population of less than 20,000.

''(3) ALLOCATIONS TO COUNTIES.—

''(A) IN GENERAL.—For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall allocate county amounts to local educational agencies, in accordance with regulations promulgated by the Secretary.

''(B) APPLICATION.—In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes the State has data that would better target funds than allocating the funds by county, the State educational agency may apply to the Secretary for authority to make the allocations under this part for a particular fiscal year directly to local educational agencies without regard to counties.

''(C) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—If the Secretary approves its application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that the allocations will be made—

''(i) using precisely the same factors for determining a grant as are used under this section; or

''(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

''(D) APPEAL.—The State educational agency shall provide the Secretary an assurance that a procedure is or will be established through which local educational agencies that are dissatisfied with determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

''(4) PUERTO RICO.—For each fiscal year, the Secretary shall determine the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

''(A) the percentage determined under the preceding sentence; and

''(B) 32 percent of the average per-pupil expenditure in the United States.

''(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is—

''(1) 10 or more; and

''(2) more than 2 percent of the total school-age population in the school district of the local educational agency.

''(c) CHILDREN TO BE COUNTED.—

''(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

''(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraphs (2) and (3);

''(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4); and

''(C) the number of children determined under paragraph (4) for the preceding year (as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children and youth (other than such institutions operated by the United States), but not counted pursuant to chapter 1 of subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

''(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains 2 or more counties in their entirety, then each county shall be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

''(3) POPULATION UPDATES.—In fiscal year 2001 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

''(4) OTHER CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act. In making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year. For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

''(5) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (2)) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

''(d) STATE MINIMUM.—Notwithstanding section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

''(1) 0.25 percent of the total amount made available to carry out this section for such fiscal year; or

''(2) the average of—

''(A) 0.25 percent of the total amount made available to carry out this section for such fiscal year; and

''(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that fiscal year.

''SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, each local educational agency in a State that is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 1124(c) who are served by the agency exceeds—

''(i) 6,500; or

''(ii) 15 percent of the total number of children aged 5 through 17 served by the agency.

''(B) MINIMUM.—Notwithstanding section 1122, no State shall receive under this section an amount that is less than the lesser of—

''(i) 0.25 percent of the total amount made available to carry out this section for such fiscal year; or

''(ii) the average of—

''(I) 0.25 percent of the sums available to carry out this section for such fiscal year; and

''(II) the greater of—

''(aa) $340,000; or

''(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that fiscal year.

''(2) DETERMINATION.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

''(A) the number of children counted under section 1124(c) for that fiscal year; and

''(B) the amount in section 1124(a)(1)(B) for all States except the Commonwealth of Puerto Rico, and the amount in section 1124(a)(3) for the Commonwealth of Puerto Rico.

''(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount that bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

''(4) LOCAL ALLOCATIONS.—

''(A) IN GENERAL.—Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 1124(a) (2) and (3).

''(B) SPECIAL RULE.—For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of the amount made available to the State under this section for any fiscal year to make grants to local educational agencies that meet the criteria in paragraph (1)(A) (i) or (ii) but that are in ineligible counties.

''(b) RATABLE REDUCTION RULE.—If the sums available under subsection (a) for any fiscal year for making payments under this section are

not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) for such fiscal year, the maximum amounts that all States are eligible to receive under subsection (a) for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

''(c) STATES RECEIVING 0.25 PERCENT OR LESS.—In States that receive 0.25 percent or less of the total amount made available to carry out this section for a fiscal year, the State educational agency shall allocate such funds among the local educational agencies in the State—

''(1) in accordance with paragraphs (2) and (4) of subsection (a); or

''(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

''SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

''(A) the number of children in the local educational agency counted under section 1124(c), before application of the weighted child count described in subsection (c), is at least 10; and

''(B) if the number of children counted for grants under section 1124(c), before application of the weighted child count described in subsection (c), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

''(2) SPECIAL RULE.—For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

''(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO.—

''(1) IN GENERAL.—The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) is eligible to receive under this section for any fiscal year shall be the product of—

''(A) the weighted child count determined under subsection (c); and

''(B) the amount determined under section 1124(a)(1)(B).

''(2) PUERTO RICO.—For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) for the Commonwealth of Puerto Rico, multiplied by the amount determined in section 1124(a)(4) for the Commonwealth of Puerto Rico.

''(c) WEIGHTED CHILD COUNT.—

''(1) WEIGHTS FOR ALLOCATIONS TO COUNTIES.—

''(A) IN GENERAL.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under subparagraphs (B) and (C).

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

''(i) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

''(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

''(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

''(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

''(C) BY NUMBER OF CHILDREN.—The amount referred to in subparagraph (A) is determined by adding—

''(i) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

''(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

''(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

''(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

''(D) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

''(2) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under subparagraphs (B) and (C).

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

''(i) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.233 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children who constitute more than 15.233 percent, but not more than 22.706 percent, of such population, multiplied by 1.75;

''(iii) the number of such children who constitute more than 22.706 percent, but not more than 32.213 percent, of such population, multiplied by 2.5;

''(iv) the number of such children who constitute more than 32.213 percent, but not more than 41.452 percent, of such population, multiplied by 3.25; and

''(v) the number of such children who constitute more than 41.452 percent of such population, multiplied by 4.0.

''(C) BY NUMBER OF CHILDREN.—The amount referred to in subparagraph (A) is determined by adding—

''(i) the number of children determined under section 1124(c) who constitute not more than 710, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

''(ii) the number of such children between 711 and 2,384, inclusive, in such population, multiplied by 1.5;

''(iii) the number of such children between 2,385 and 9,645, inclusive, in such population, multiplied by 2.0;

''(iv) the number of such children between 9,646 and 54,600, inclusive, in such population, multiplied by 2.5; and

''(v) the number of such children in excess of 54,600 in such population, multiplied by 3.0.

''(D) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

''(d) CALCULATION OF GRANT AMOUNTS.—Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 1124(a) (2) and (3).

''(e) STATE MINIMUM.—Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted not less than 0.5 percent of the total amount made available to carry out this section for such fiscal year.

''SEC. 1125A. EDUCATION FINANCE INCENTIVE PROGRAM.

''(a) GRANTS.—From funds appropriated under subsection (e) the Secretary is authorized to make grants to States, from allotments under subsection (b), to carry out the purposes of this part.

''(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds appropriated pursuant to subsection (e) shall be allotted to each State based upon the number of children counted under section 1124(c) in such State multiplied by the product of—

''(i) such State's effort factor described in paragraph (2); multiplied by

''(ii) 1.30 minus such State's equity factor described in paragraph (3).

''(B) MINIMUM.—For each fiscal year no State shall receive under this section less than 0.5 percent of the total amount appropriated under subsection (e) for the fiscal year.

''(2) EFFORT FACTOR.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

''(B) COMMONWEALTH OF PUERTO RICO.—The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

''(3) EQUITY FACTOR.—

''(A) DETERMINATION.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

''(ii) COMPUTATION.—

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

''(II) VARIATION.—In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

''(III) NUMBER OF PUPILS.—In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children from low-income families by a factor of 1.4.

''(IV) ENROLLMENT REQUIREMENT.—In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

''(B) SPECIAL RULE.—The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Better Education for Students and Teachers Act) or a State with only 1 local educational agency shall be not greater than 0.10.

''(C) REVISIONS.—The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited English-proficiency or other meaningful educational needs, which deserve additional support. In addition, after obtaining the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

''(c) USE OF FUNDS.—All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 1124, 1124A, and 1125 to carry out activities under this part.

''(d) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

''(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

''(3) WAIVERS.—The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(f) STUDY, EVALUATION AND REPORT OF SCHOOL FINANCE EQUALIZATION.—(1) The Secretary shall conduct a study to evaluate and report to the Congress on the degree of disparity in expenditures per pupil among local educational agencies within and across each of the fifty States and the District of Columbia. The Secretary shall also analyze the trends in State school finance legislation and judicial action requiring that States equalize resources. The Secretary shall evaluate and report to the Congress whether or not it can be determined if these actions have resulted in an improvement in student performance.

''(2) In preparing this report, the Secretary may also consider the following: Various measures of determining disparity; the relationship between education expenditures and student performance; the effect of Federal education assistance programs on the equalization of school finance resources; and the effects of school finance equalization on local and State tax burdens.

''(3) Such reports shall be submitted to the Congress not later than one year after the date of enactment of the Better Education for Students and Teachers Act.

''SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

''(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

''(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected or delinquent children as described in section 1124(c)(1)(C), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

''(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

''(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 among the affected local educational agencies—

''(1) if 2 or more local educational agencies serve, in whole or in part, the same geographical area;

''(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

''(3) to reflect the merger, creation, or change of boundaries of 1 or more local educational agencies.

''(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

''SEC. 1127. CARRYOVER AND WAIVER.

''(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

''(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

''(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

''(2) supplemental appropriations for this subpart become available.

''(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.''.

SEC. 120E. SCHOOL YEAR EXTENSION ACTIVITIES.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. SCHOOL YEAR EXTENSION ACTIVITIES.

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—A local educational agency may use funds received under this part to—

''(A) to extend the length of the school year to 210 days, including necessary increases in compensation to employees;

''(B) conduct outreach to and consult with community members, including parents, students, and other stakeholders, to develop a plan to extend learning time within or beyond the school day or year; and

''(C) research, develop, and implement strategies, including changes in curriculum and instruction.

''(b) APPLICATION.—A local educational agency desiring to use funds under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the agency may require. Each application shall describe—

''(1) the activities to be carried out under this section;

''(2) any study or other information-gathering project for which funds will be used;

''(3) the strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize high quality instruction in the core academic areas during the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

''(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

''(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

''(6) with respect to any application to carry out activities described in subsection (b)(1)(A), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

''(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this section;

''(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assistance under this section;

''(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

''(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this section;

''(11) the goals and objectives of the activities assisted under this section, including a description of how such activities will assist all students to reach State standards;

''(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

''(13) how the applicant will use funds provided under this section in coordination with funds provided under other Federal laws.

SEC. 120F. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

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

(1) The current Basic Grant Formula for the distribution of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), often does not provide funds 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 50 and 75 percent receive no funding at all under title I of the Elementary and Secondary Education Act of 1965.

(5) In passing the Improving America's Schools Act in 1994, Congress declared that grants 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 children 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 educational disadvantage if 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 will positively affect 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 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''; and

(4) by adding at the end the following:

"Subpart 2—Reading First"

"SEC. 1221. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To provide assistance to States and local educational agencies in establishing reading programs for students in grades kindergarten through 3 that are grounded in scientifically based reading research, in order to ensure that every student can read at grade level or above by the end of the third grade.

''(2) To provide assistance to States and local educational agencies in preparing teachers, through professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools effectively to help their student to learn to read.

''(3) To provide assistance to States and local educational agencies in selecting or developing screening instruments, rigorous diagnostic reading assessments, and classroom-based instructional assessments.

''(4) To provide assistance to States and local educational agencies in selecting or developing effective instructional materials, programs, and strategies to implement methods that have been proven to prevent or remediate reading failure within a State or States.

''(5) To strengthen coordination among schools, early literacy programs, and family literacy programs in order to improve reading achievement for all children.

"SEC. 1222. FORMULA GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

''(a) IN GENERAL.—In the case of each State educational agency that in accordance with section 1224 submits to the Secretary an application for a 5-year period, the Secretary, subject to the application's approval, shall make a grant to the State educational agency for the uses specified in subsections (c) and (d). The grant shall consist of the allotment determined for the State under subsection (b).

''(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

''(1) IN GENERAL.—From the total amount made available to carry out this subpart for any fiscal year and not reserved under section 1226, the Secretary shall allot among each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, in accordance with paragraph (2)—

''(A) 100 percent of such remaining amount for each of the fiscal years 2002 and 2003; and

''(B) 75 percent of such remaining amount for each of the fiscal years 2004 through 2008.

''(2) STATE ALLOTMENTS.—The Secretary shall allot the amount made available under paragraph (1) for a fiscal year among the States in proportion to the amount all local educational agencies in a State would receive under section 1124.

''(3) REALLOTMENT.—If any State does not apply for an allotment under this section for any fiscal year, or if the State's application is not approved, the Secretary shall reallot such amount to the remaining States in accordance with paragraph (2).

''(4) RESERVATION FROM APPROPRIATIONS.—From the amounts appropriated under section 1002(b)(2) to carry out this subpart for a fiscal year, the Secretary shall—

''(A) reserve ½ 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 ½ 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 subsection, competitive subgrants to eligible local educational agencies.

''(2) NOTICE.—A State receiving a grant under this section shall provide notice to all eligible local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) LOCAL APPLICATION.—To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(4) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this subpart the term 'eligible local educational agency' means a local educational agency that—

''(A) has a high 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 subchapter U of chapter 1 of the Internal Revenue Code of 1986;

''(ii) jurisdiction over at least 1 school that is identified for school improvement under section 1116(c); or

''(iii) a high number or percentage of children who are counted under section 1124(c), in comparison to other local educational agencies in the State.

''(5) STATE REQUIREMENT.—In distributing subgrant funds to local educational agencies, a State shall—

''(A) provide the funds in sufficient amounts to enable the local educational agencies to improve reading; and

''(B) provide the funds in amounts related to the number or percentage of students in kindergarten through grade 3 who are reading below grade level.

''(6) LOCAL ELIGIBILITY.—In distributing subgrant funds under this subsection, a local educational agency shall provide funds only to schools that—

''(A) have a high percentage of students in grades kindergarten through 3 reading below grade level;

''(B) are identified for school improvement under section 1116(c); or

''(C) have a high percentage of children counted under section 1124(c).

''(7) LOCAL USES OF FUNDS.—Subject to paragraph (8), a local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

''(A) Selecting or developing, and administering, 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—

''(I) may have reading difficulties;

''(II) are at risk of being referred to special education based on these difficulties;

''(III) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, and have not been identified as being a child with a disability (as defined in section 602 of such Act);

''(IV) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of such Act) related to reading; or

''(V) are identified as having limited English proficiency (as defined in section 3501).

''(C) Procuring and implementing instructional materials, including education technology such as software and other digital curricula, grounded on scientifically based reading research.

''(D) Providing professional development for teachers of grades kindergarten through 3 that—

''(i) will prepare these teachers in all of the major components of reading instruction;

''(ii) shall include—

''(I) information on instructional materials, programs, strategies, and approaches grounded on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

''(II) instruction in the use of rigorous diagnostic reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

''(iii) shall be provided by eligible professional development providers.

''(E) Promoting reading and library programs that provide access to engaging reading material.

''(F) Providing training to individuals who volunteer to be reading tutors for students to enable the volunteers to support instructional practices that are based on scientific reading research and being used by the student's teacher.

''(G) Assisting parents, through the use of materials, programs, strategies and approaches (including family literacy services), that are based on scientific reading research, to help support their children's reading development.

''(H) Collecting and summarizing data—

''(i) to document the effectiveness of this subpart in individual schools and in the local educational agency as a whole; and

''(ii) to stimulate and accelerate improvement by identifying the schools that produce significant gains in reading achievement.

''(I) Reporting data for all students and categories of students identified under section 1111(b)(2)(B)(v).

''(9) LOCAL PLANNING AND ADMINISTRATION.—A local educational agency that receives a subgrant under this subsection may use not more than 5 percent of the funds provided under the subgrant for planning and administration.

''(d) OTHER STATE USES OF FUNDS.—

''(1) IN GENERAL.—A State educational agency that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

''(2) PRIORITY.—A State shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6).

''(3) PROFESSIONAL DEVELOPMENT.—A State may expend not more than 100 percent of the amount of the funds made 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, strategies, and approaches grounded on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

''(ii) instruction in the use of rigorous diagnostic reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

''(C) shall be provided by eligible professional development providers.

''(4) TECHNICAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES AND SCHOOLS.—A State may expend not more than 25 percent of the amount of the funds made available under paragraph (1) for one or more of the following authorized State activities:

''(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

''(i) selecting and implementing a program or programs of reading instruction grounded on scientifically based reading research;

''(ii) selecting or developing rigorous diagnostic reading assessments; and

''(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in subparagraphs (A) and (B).

''(B) Providing expanded opportunities to students in grades kindergarten through 3 within eligible local educational agencies for receiving reading assistance from alternative providers that includes—

''(i) a rigorous diagnostic reading assessment; and

''(ii) instruction in the major components of reading that is based on scientific reading research.

''(5) PLANNING, ADMINISTRATION, AND REPORTING.—

''(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 activities described in this paragraph.

''(B) PLANNING AND ADMINISTRATION.—A State that receives a grant under this section may expend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds authorized under this subpart, including the following:

''(i) Administering the distribution of competitive subgrants to local educational agencies under sections 1222 and 1223.

''(ii) Collecting and summarizing data—

''(I) to document the effectiveness of this subpart in individual local educational agencies and in the State as a whole; and

''(II) to stimulate and accelerate improvement by identifying the local educational agencies that produce significant gains in reading achievement.

''(C) ANNUAL REPORTING.—

''(i) IN GENERAL.—A State that receives a grant under this section shall expend funds provided under the grant to provide the Secretary annually with a report on the implementation of this subpart. The report shall include evidence that the State is fulfilling its obligations under this subpart. The report shall also include the data required under subsections (c)(7) (H) and (I) to be reported to the State by local educational agencies. The report shall include a specific identification of those local educational agencies that report significant gains in reading achievement overall and such gains based on disaggregated data, reported in the same manner as data is reported under subsection (c)(7)(I).

''(ii) PRIVACY PROTECTION.—Data in the report shall be reported in a manner that protects the privacy of individuals.

''(iii) CONTRACT.—To the extent practicable, a State shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will assist the State in producing the reports required to be submitted under this subparagraph.

''(6) PRIME TIME FAMILY READING TIME.—A State that receives a grant under this section may expend funds provided under the grant for a humanities-based family literacy program which bonds families around the acts of reading and using public libraries.

''SEC. 1223. COMPETITIVE GRANTS TO STATES; COMPETITIVE SUBGRANTS TO LOCAL AGENCIES.

''(a) IN GENERAL.—For fiscal year 2004 and each succeeding fiscal year the Secretary is authorized to award grants, on a competitive basis according to the criteria described in subsection (b) (2) or (3), to any State educational agency that received a grant under section 1222, for the use specified in subsection (c).

''(b) AMOUNT AVAILABLE FOR GRANTS; CRITERIA FOR GRANTS.—

''(1) AMOUNT.—From the total amount made available to carry out this subpart for fiscal year 2004 or any succeeding fiscal year that is not used under section 1222 or reserved under section 1226, the Secretary shall award grants under this section according to the criteria described in paragraph (2) or (3).

''(2) CRITERIA FOR AWARDING COMPETITIVE GRANTS TO STATES.—In carrying out this section, the Secretary shall award grants to those State educational agencies that—

''(A) for 2 consecutive years, make or exceed adequate yearly progress in reading for all third graders, in the aggregate, who attend schools served by the local educational agencies receiving funding under this subpart;

''(B) for each of the same such consecutive 2 years, demonstrate that an increasing percentage of third graders in each of the groups described in section 1111(b)(2)(B)(v)(II) in the schools served by the local educational agencies receiving funds under this subpart are reaching the proficient level in reading; and

''(C) for each of the same such consecutive 2 years, demonstrate that schools receiving funds under this subpart are improving the reading skills of students in the first and second grades based on screening, diagnostic, or classroom-based instructional assessments.

''(3) INTERIM CRITERIA FOR AWARDING COMPETITIVE GRANTS TO STATES.—If a State has not defined adequate yearly progress and implemented an assessment of reading in grade 3 as required under subsection 1111(b), then the Secretary shall award grants to such State educational agency on the basis of evidence supplied by the State that, for 2 consecutive years, increasing percentages of students are reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(4) CONTINUATION OF PERFORMANCE AWARDS.—For any State that receives a competitive grant under this section, the Secretary shall make an award for each of the following, consecutive years that the State demonstrates it is continuing to meet the criteria described in paragraph (2) or (3).

''(5) DISTRIBUTION OF PERFORMANCE GRANTS.—

''(A) IN GENERAL.—The Secretary shall make a grant to each State with an application approved under this section in proportion to the number of poor children determined under section 1124(c)(1)(A) for the State as compared to the number of such poor children in all States with applications approved in that year.

''(B) APPLICATION CONTENTS.—A State that desires to receive 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. Each such application shall include the following:

''(i) Evidence that the State has carried out its obligations under this subpart.

''(ii) Evidence that the State has met the criteria described in paragraph (2) or (3).

''(iii) The amount of funds being requested by the State and a description of the criteria the State intends to use in distributing subgrants to local educational agencies under this section to continue or expand activities under this subpart.

''(iv) Any additional evidence that demonstrates success in the implementation of this subpart.

''(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) IN GENERAL.—The Secretary may make a grant to a State under this section only if the State agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to local educational agencies.

''(2) NOTICE.—A State receiving a grant under this section shall provide notice to all eligible local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) APPLICATION.—To apply for a subgrant under this subsection, an eligible local educational agency shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

''(4) DISTRIBUTION.—A State shall distribute funds under this section, on a competitive basis, based on the following criteria:

''(A) Evidence that a local educational agency has carried out its obligations under this subpart.

''(B) Evidence that a local educational agency has, for 2 consecutive years, made or exceeded adequate yearly progress in reading for all third graders, in the aggregate, who attend schools receiving funds under this subpart.

''(C) Evidence that a local educational agency has, for each of the same such consecutive 2 years, demonstrated that an increasing percentage of the third graders in each of the groups described in section 1111(b)(2)(B)(v)(II) in schools receiving funds under this subpart are reaching the proficient level in reading.

''(D) Evidence that a local educational agency has, for each of the same such consecutive 2 years, demonstrated that schools receiving funds under this subpart are improving the reading skills of students in the first and second grades based on screening, diagnostic, or classroom-based instructional assessments.

''(E) The amount of funds being requested by a local educational agency in its application under paragraph (3) and the description in such application of how such funds will be used to support the continuation or expansion of the agency's programs under this subpart.

''(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 reading achievement of students.

''(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 for 2 consecutive years increased the percentage of students reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(6) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the activities described in subparagraphs (A) through (G) of section 1222(c)(7).

''SEC. 1224. STATE APPLICATIONS.

''(a) APPLICATIONS.—

''(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 and in such form 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 submitted and approved under that program and minimizes the duplication of effort on the part of such States.

''(b) CONTENTS.—An application under this section shall contain the following:

''(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

''(A) coordinated the development of the application; and

''(B) will assist in the oversight and evaluation of the State's activities under this subpart.

''(2) A description of a strategy to expand, continue, or modify activities commenced under part C of title II of this Act (as such part was in effect on the day before the date of the enactment of the Better Education for Students and Teachers Act).

''(3) An assurance that the State will submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a State plan containing a description of the following:

''(A) How the State will assist local educational agencies in identifying rigorous diagnostic reading assessments.

''(B) How the State will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, grounded on scientifically based reading research, including early intervention and reading remediation materials, programs and approaches.

''(C) How the State educational agency will ensure that professional development activities related to reading instruction and provided under this subpart are—

''(i) coordinated with other 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 students to read.

''(E) The extent to which the activities will prepare teachers in all the major components of reading instruction.

''(F) How subgrants made by the State educational agency under this subpart will meet the requirements of this subpart, including how the State educational agency will ensure that local educational agencies receiving subgrants under this subpart will use practices based on scientifically based reading research.

''(G) How the State educational agency will, to the extent practicable, make grants to subgrantees in both rural and urban areas.

''(H) How the State educational agency—

''(i) will build on, and promote coordination among, literacy programs in the State (including federally funded programs such as the Adult Education and Family Literacy Act and the Individuals with Disabilities Education Act), in order to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program; and

''(ii) will assess and evaluate, on a regular basis, local educational agency activities assisted under this subpart, with respect to whether they have been effective in achieving the purposes of this subpart.

''(c) APPROVAL OF APPLICATIONS.—

''(1) IN GENERAL.—The Secretary shall approve an application of a State under this section only if such application meets the requirement of this section.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

''(i) 3 individuals selected by the Secretary;

''(ii) 3 individuals selected by the National Institute for Literacy;

''(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

''(iv) 3 individuals selected by the National Institute of Child Health and Human Development.

''(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

''(C) RECOMMENDATIONS.—The panel shall recommend grant applications from States under this section to the Secretary for funding or for disapproval.

''(d) READING AND LITERACY PARTNERSHIPS.—

''(1) REQUIRED PARTICIPANTS.—In order for a State to receive a grant under this subpart, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership consisting of at least the following participants:

''(A) The Governor of the State.

''(B) The chief State school officer.

''(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

''(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one local educational agency that is eligible to receive a subgrant under section 1222.

''(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

''(F) State directors of appropriate Federal or State programs with a strong reading component.

''(G) A parent of a public or private school student or a parent who educates their child or children in their home, selected jointly by the Governor and the chief State school officer.

''(H) A teacher who successfully teaches reading and an instructional staff member, selected jointly by the Governor and the chief State school officer.

''(I) A family literacy service provider selected jointly by the Governor and the chief State school officer.

''(2) OPTIONAL PARTICIPANTS.—A reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

''(A) an institution of higher education operating a program of teacher preparation based on scientifically based reading research in the State;

''(B) a local educational agency;

''(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

''(D) an adult education provider;

''(E) a volunteer organization that is involved in reading programs; or

''(F) a school library or a public library that offers reading or literacy programs for children or families.

''(3) PREEXISTING PARTNERSHIP.—If, before the date of the enactment of the Better Education for Students and Teachers Act, a State established a consortium, partnership, or any other similar body that was considered a reading and literacy partnership for purposes of part C of title II of this Act (as such part was in effect on the day before the date of the enactment of the Better Education for Students and Teachers Act), that consortium, partnership, or body may be considered a reading and literacy partnership for purposes of this subpart notwithstanding that it does not satisfy the requirements of paragraph (1).

''SEC. 1225. ACCOUNTABILITY FOR RESULTS.

''(a) STATE ACCOUNTABILITY.—

''(1) REDUCTIONS.—If the Secretary makes the determination described in paragraphs (2) or (3)

for 2 consecutive years, then the Secretary shall reduce the size of a State's grant under this subpart for the subsequent fiscal year.

''(2) DETERMINATION.—The determination referred to in paragraph (1) is the determination, made on the basis of data from the State assessment system described in section 1111, that a State—

''(A) failed to make adequate yearly progress in reading (as defined in the State's plan under section 1111) for all third graders, in the aggregate, who attend schools receiving funds under this subpart; and

''(B) failed to increase the percentage of third graders within each of the groups described in section 1111(b)(2)(B)(v)(II) who attend schools receiving funds under this subpart in reaching the proficient level in reading as compared to the previous school year.

''(3) INTERIM CRITERIA FOR DETERMINATION.—If a State has not defined adequate yearly progress and implemented an assessment of reading in grade 3 as required under subsection 1111(b), then the determination referred to in paragraph (1) is the determination that such State failed to increase the percentage of students reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(4) CONTINUED REDUCTIONS.—If the Secretary makes the determination described in paragraph (2) or (3) for a third or subsequent consecutive year, then the Secretary shall continue to reduce a States's grant under this subpart in each such consecutive year.

''(b) LOCAL EDUCATIONAL AGENCY ACCOUNTABILITY.—

''(1) REDUCTIONS.—If the State educational agency makes the determination described in paragraph (2) or (3) for a local educational agency receiving funds under this subpart for 2 consecutive years, then the State shall make that local educational agency a priority for professional development and technical assistance provided under section 1222(d) (3) and (4).

''(2) DETERMINATION.—The determination referred to in paragraph (1) is the determination, made on the basis of data from the State assessment system described in section 1111, that a local educational agency—

''(A) failed to make adequate yearly progress in reading (as defined in the State plan under section 1111) for all third graders, in the aggregate, who attend schools that are served by the agency and receive funds under this subpart; and

''(B) failed to increase the percentage of third graders, within each of the groups described in section 1111(b)(2)(B)(v)(II), who attend schools that are served by the agency and receive funds under this subpart, reaching the proficient level in reading as compared to the previous school year.

''(3) INTERIM CRITERIA FOR DETERMINATION.—If a State has not defined adequate yearly progress and implemented an assessment of reading in grade 3 as required under subsection 1111(b), then the determination referred to in paragraph (1) is the determination that a local educational agency failed to increase the percentage of students reading at grade level or above in grades 1 through 3 in schools receiving funds under this subpart.

''(4) CONTINUED REDUCTIONS.—If the State makes the determination described in paragraph (2) for a third or subsequent consecutive year, then the State shall continue to provide professional development and technical assistance and may require the local educational agency to institute a new reading curriculum that has demonstrated success in improving the reading skills of students in kindergarten through third grade, replace school district or school staff involved in the planning or implementation of the reading curriculum, or take some other action or actions to address the cause or causes for such failure to demonstrate progress. If the local educational agency refuses to take such action, then the State may reduce or eliminate the grant to that local educational agency.

''SEC. 1226. RESERVATIONS FROM APPROPRIATIONS.

''From the amounts appropriated to carry out this subpart for a fiscal year, the Secretary—

''(1) may reserve not more than 1 percent to carry out section 1227 (relating to national activities); and

''(2) 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 difficulties learning to read).

''(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 identifies 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.

''(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 changes 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(2), the National Institute for Literacy, in collaboration with the Departments of Education and Health and Human Services, including the National Institute for Child Health and Human Development, shall—

''(1) disseminate information on scientifically based reading research pertaining to children, youth, and adults;

''(2) identify and disseminate information about schools, local educational agencies, and States that effectively developed and implemented reading programs that meet the requirements of this subpart, including those effective States, local educational agencies, and schools identified through the evaluation and peer review provisions of this subpart; and

''(3) support the continued identification of scientifically based reading research that can lead to improved reading outcomes for children, youth, and adults through evidenced-based assessments of the scientific research literature.

''(b) DISSEMINATION AND COORDINATION.—At a minimum, the National Institute for Literacy shall disseminate such information to recipients of Federal financial assistance under titles I and III, the Head Start Act, the Individuals With Disabilities Education Act, and the Adult Education and Family Literacy Act. In carrying out this section, the National Institute for Literacy shall, to the extent practicable, utilize existing information and dissemination networks developed and maintained through other public and private entities including through the Department and the National Center for Family Literacy.

''(c) USE OF FUNDS.—The National Institute for Literacy may use not more than 5 percent of the funds made available under section 1226(2) for administrative purposes directly related to carrying out of activities authorized by this section.

''SEC. 1229. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

''(a) IN GENERAL.—From funds made available under subsection (d) for a fiscal year, the Secretary shall allot to each State 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 receiving 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 (f)) in an amount that bears the same relation to such remainder as the amount the local educational agency received under part A for the fiscal year bears to the amount received by all such local educational agencies in the State for the fiscal year.

''(c) APPLICATIONS.—

''(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring assistance under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

''(A) 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; and

''(B) 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 an application at such time, in such manner, and containing such information as the State educational agency shall require. The application shall contain a description of—

''(A) a 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 school library media centers to 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 subsection (f) using programs and materials that are grounded in scientifically based research;

''(C) the manner in which the local educational agency will effectively coordinate the funds and activities provided under this section with Federal, State, and local funds and activities under this subpart and other literacy, library, technology, and professional development funds and activities; and

''(D) the manner in which the local educational agency will collect and analyze data on the quality and impact of activities carried out under this section by schools served by the local educational agency.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000,000 for fiscal year 2002 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) 50 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; and

''(2) 50 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).

''(f) LOCAL ACTIVITIES.—Funds under this section may be used to—

''(1) acquire up-to-date school library media resources, including books;

''(2) acquire and utilize advanced technology, incorporated into the curricula of the school, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

''(3) facilitate Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible;

''(4) provide professional development described in 1222(c)(7)(D) for school library media specialists, and activities that foster increased collaboration between school library media specialists, teachers, and administrators; and

''(5) provide students with access to school libraries during nonschool hours, including the hours before and after school, during weekends, and during summer vacation periods.

''(g) ACCOUNTABILITY AND CONTINUATION OF FUNDS.—Each local educational agency that receives funding under this section for a fiscal year shall be eligible to continue to receive the funding for a third or subsequent fiscal year only if the local educational agency demonstrates to the State educational agency that the local educational agency has increased—

''(1) the availability of, and the access to, up-to-date school library media resources in the elementary schools and secondary schools served by the local educational agency; and

''(2) the number of well-trained, professionally certified school library media specialists in those schools.

''(h) APPLICABILITY.—The provisions of this subpart (other than this section) shall not apply to this section.

''(i) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

''(j) NATIONAL ACTIVITIES.—From the total amount made available under subsection (d) 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. 1230. DEFINITIONS.

''For purposes of this subpart:

''(1) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term 'eligible professional development provider' means a provider of professional development in reading instruction to teachers that is based on scientifically based reading research.

''(2) INSTRUCTIONAL STAFF.—The term 'instructional staff'—

''(A) means individuals who have responsibility for teaching children to read; and

''(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

''(3) MAJOR COMPONENTS OF READING INSTRUCTION.—The term 'major components of reading instruction' means systematic instruction that includes—

''(A) phonemic awareness;

''(B) phonics;

''(C) vocabulary development;

''(D) reading fluency; and

''(E) reading comprehension strategies.

''(4) READING.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

''(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

''(B) The ability to decode unfamiliar words.

''(C) The ability to read fluently.

''(D) Sufficient background information and vocabulary to foster reading comprehension.

''(E) The development of appropriate active strategies to construct meaning from print.

''(F) The development and maintenance of a motivation to read.

''(5) RIGOROUS DIAGNOSTIC READING ASSESSMENT.—The term 'rigorous diagnostic reading assessment' means a diagnostic reading assessment that—

''(A) is valid, reliable, and grounded in scientifically based reading research;

''(B) measures progress in phonemic awareness and phonics, vocabulary development, reading fluency, 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'—

''(A) means research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

''(B) shall include research that—

''(i) employs systematic, empirical methods that draw on observation or experiment;

''(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

''(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

''(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.''.

SEC. 122. EARLY READING INITIATIVE.

Part B of title I (20 U.S.C. 6361 et seq.) is amended further by adding at the end the following:

''Subpart 3—Early Reading First

''SEC. 1241. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research.

''(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

''(3) To demonstrate language and literacy activities based on scientifically based research 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 subpart the term 'eligible applicant' means—

''(1) one or more local educational agencies that are eligible to receive a subgrant under subpart 2;

''(2) one or more public or private organizations or agencies, acting on behalf of 1 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), which organizations or agencies shall be located in a community served by a local educational agency described in paragraph (1); or

''(3) one or more local educational agencies described in paragraph (1) in collaboration with one or more organizations or agencies described in paragraph (2).

''(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—

''(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the 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 and utilize 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 better, including such children with limited English proficiency, disabilities, or 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 Child Health and Human Development, the National Institute for Literacy, and the National Academy of Sciences. The Secretary shall select applications for approval under this subpart on the basis of a peer review process.

''(e) AUTHORIZED ACTIVITIES.— An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

''(A) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

''(B) Providing professional development that is based on scientifically based research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

''(i) spoken language (including vocabulary, the contextual use of speech, and syntax) and oral comprehension abilities;

''(ii) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

''(iii) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

''(iv) knowledge of the purposes and conventions of print.

''(C) Identifying and providing activities and instructional materials that are based on scientifically based research for use in developing the skills and abilities described in subparagraph (B).

''(D) Acquiring, providing training for, and implementing screening tools or other appropriate measures that are based on scientifically based research to determine whether preschool age children are developing the skills described in this subsection.

''(E) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

''(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

''SEC. 1243. FEDERAL ADMINISTRATION.

''The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with preschool age programs administered by the Department of Health and Human Services.

''SEC. 1244. INFORMATION DISSEMINATION.

''From the funds the National Institute for Literacy receives under section 1228, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

''SEC. 1245. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

''(1) the activities, materials, tools, 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 1002(b)(3) for the period beginning October 1, 2002 and ending September 30, 2008, the Secretary shall reserve not more than $5,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

''SEC. 1247. ADDITIONAL RESEARCH.

''From the amount appropriated under section 1002(b)(3) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for 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;

(2) by inserting after paragraph (1) the following:

''(2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State student performance and content standards;'';

(3) in paragraph (5) (as so redesignated), by striking ''and'' after the semicolon;

(4) in paragraph (6) (as so redesignated), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(7) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State content and student performance standards that all children are expected to meet.''.

SEC. 132. STATE APPLICATION.

Section 1304 (20 U.S.C. 6394) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''a comprehensive'' and all that follows through ''1306;'' and inserting ''the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;'';

(B) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(C) by inserting after paragraph (1) the following:

''(2) a description of joint planning efforts that will be made with respect to programs assisted under this Act, local, State, and Federal programs, and bilingual education programs under subpart 1 of part A of title III;''; and

(2) in subsection (c), by amending paragraph (3) to read as follows:

''(3) in the planning and operation of programs and projects at both the State and local agency operating level there is consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out—

''(A) in a manner consistent with section 1118 unless extraordinary circumstances make implementation with such section impractical; and

''(B) in a format and language understandable to the parents;''.

SEC. 133. COMPREHENSIVE PLAN.

(a) COMPREHENSIVE PLAN.—Section 1306(a)(1) (20 U.S.C. 6396(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''the Goals 2000: Educate America Act,''; and

(B) by striking ''14306'' and inserting ''5506''; and

(2) in subparagraph (B), by striking ''14302;'' and inserting ''5502, if—

''(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

''(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

''(iii) the comprehensive State planning is not used to supplant State efforts regarding, or administrative funding for, this part;''.

(b) AUTHORIZED ACTIVITIES.—Section 1306(b)(3) (20 U.S.C. 6396(b)(3)) is amended by inserting '', and shall meet the special educational needs of migrant children before using funds under this part for schoolwide programs under section 1114'' before the period.

SEC. 134. COORDINATION.

Section 1308 (20 U.S.C. 6398) is amended—

(1) by amending subsection (b) to read as follows:

''(b) ACCESS TO INFORMATION ON MIGRANT STUDENTS.—

''(1) INFORMATION SYSTEM.—(A) The Secretary shall establish an information system for electronically exchanging, among the States, health and educational information regarding all students served under this part. Such information may include—

''(i) immunization records and other health information;

''(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under this title;

''(iii) other academic information essential to ensuring that migrant children achieve to high standards; and

''(iv) eligibility for services under the Individuals with Disabilities Education Act.

''(B) The Secretary shall publish, not later than 120 days after the date of enactment of the Better Education for Students and Teachers Act, a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migrant student information, the requirements for immediate electronic access to such information, and the educational agencies eligible to access such information.

''(C) Such system of electronic access to migrant student information shall be operational not later than 1 year after the date of enactment of the Better Education for Students and Teachers Act.

''(D) For the purpose of carrying out this subsection in any fiscal year, the Secretary shall reserve not more than $10,000,000 of the amount

appropriated to carry out this part for such year.

''(2) REPORT TO CONGRESS.—(A) Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding services under this part, and shall include in this report, recommendations for the interim measures that may be taken to ensure continuity of services under this part.

''(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.''.

(2) in subsection (c), by striking ''$6,000,000'' and inserting ''$10,000,000'';

(3) in subsection (d)(1), by striking ''$1,500,000'' and inserting ''$3,000,000''; and

(4) by adding at the end the following:

''(e) DATA COLLECTION.—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.''.

PART D—INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK YOUTH

SEC. 141. INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK YOUTH.

Part D of title I (20 U.S.C. 6421 et seq.) is amended to read as follows:

''PART D—INITIATIVES FOR NEGLECTED, DELINQUENT, OR AT RISK STUDENTS

''Subpart 1—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or at Risk of Dropping Out

''SEC. 1401. PURPOSE; PROGRAM AUTHORIZED.

''(a) PURPOSE.—It is the purpose of this subpart—

''(1) to improve educational services for children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State are expected to meet;

''(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

''(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

''(b) PROGRAM AUTHORIZED.—In order to carry out the purpose of this subpart the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

''SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS SUBPART.

''(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies under chapter 1.

''(b) LOCAL SUBGRANTS.—Each State shall retain, for purposes of carrying out chapter 2, funds generated throughout the State under part A of title I based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

''Chapter 1—State Agency Programs

''SEC. 1411. ELIGIBILITY.

''A State agency is eligible for assistance under this chapter if such State agency is responsible for providing free public education for children—

''(1) in institutions for neglected or delinquent children and youth;

''(2) attending community day programs for neglected or delinquent children and youth; or

''(3) in adult correctional institutions.

''SEC. 1412. ALLOCATION OF FUNDS.

''(a) SUBGRANTS TO STATE AGENCIES.—

''(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this chapter, for each fiscal year, an amount equal to the product of—

''(A) the number of neglected or delinquent children and youth described in section 1411 who—

''(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

''(ii) are enrolled for at least 20 hours per week—

''(I) in education programs in institutions for neglected or delinquent children and youth; or

''(II) in community day programs for neglected or delinquent children and youth; and

''(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

''(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

''(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

''(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

''(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this chapter shall be equal to—

''(1) the number of children and youth counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico; multiplied by

''(2) the product of—

''(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

''(B) 32 percent of the average per-pupil expenditure in the United States.

''(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

''SEC. 1413. STATE REALLOCATION OF FUNDS.

''If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this chapter for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this subpart, in such amounts as the State educational agency shall determine.

''SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

''(a) STATE PLAN.—

''(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this chapter shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent children and youth and, where applicable, children and youth at risk of dropping out of school, that is integrated with other programs under this Act, or other Acts, as appropriate, consistent with section 5506.

''(2) CONTENTS.—Each such State plan shall—

''(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

''(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

''(C) contain assurances that the State educational agency will—

''(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection;

''(ii) carry out the evaluation requirements of section 1431;

''(iii) ensure that the State agencies receiving subgrants under this chapter comply with all applicable statutory and regulatory requirements; and

''(iv) provide such other information as the Secretary may reasonably require.

''(3) DURATION OF THE PLAN.—Each State plan shall—

''(A) remain in effect for the duration of the State's participation under this subpart; and

''(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this subpart.

''(b) SECRETARIAL APPROVAL; PEER REVIEW.—

''(1) IN GENERAL.—The Secretary shall approve each State plan that meets the requirements of this part.

''(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

''(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this chapter shall submit an application to the State educational agency that—

''(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

''(2) provides assurances that in making services available to youth in adult correctional institutions, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

''(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

''(4) describes how the program will meet the goals and objectives of the State plan;

''(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

''(6) describes how the agency will carry out evaluation activities and how the results of the most recent evaluation are used to plan and improve the program;

''(7) includes data showing that the agency has maintained the fiscal effort required of a local educational agency, in accordance with section 4;

''(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of the Workforce Investment Act of 1998, vocational education programs, State and local dropout prevention programs, and special education programs;

''(9) describes how appropriate professional development will be provided to teachers and other staff;

''(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

''(11) describes how the agency will, endeavor to coordinate with businesses for training and mentoring for participating children and youth;

''(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

''(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

''(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if the youth—

''(A) is identified as in need of special education services while the youth is in the facility; and

''(B) intends to return to the local school;

''(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or its recognized equivalent if the youth does not intend to return to school;

''(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

''(17) describes any additional services provided to children and youth, such as career counseling, and assistance in securing student loans and grants; and

''(18) provides assurances that the program under this chapter will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 or other comparable programs, if applicable.

''SEC. 1415. USE OF FUNDS.

''(a) USES.—

''(1) IN GENERAL.—A State agency shall use funds received under this chapter only for programs and projects that—

''(A) are consistent with the State plan under section 1414(a); and

''(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

''(2) PROGRAMS AND PROJECTS.—Such programs and projects—

''(A) may include the acquisition of equipment;

''(B) shall be designed to support educational services that—

''(i) except for institution-wide projects under section 1416, are provided to children and youth identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

''(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

''(iii) afford such children and youth an opportunity to learn to such challenging State standards;

''(C) shall be carried out in a manner consistent with section 1120A and part H of title I; and

''(D) may include the costs of evaluation activities.

''(b) SUPPLEMENT, NOT SUPPLANT.—A program under this chapter that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A without regard to the subject areas in which instruction is given during those hours.

''SEC. 1416. INSTITUTION-WIDE PROJECTS.

''A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

''(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

''(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

''(3) describes the steps the State agency has taken, or will take, to provide all youth under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the youths will complete secondary school, attain a secondary diploma or its recognized equivalent, or find employment after leaving the institution;

''(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

''(5) specifically describes how such funds will be used;

''(6) describes the measures and procedures that will be used to assess student progress;

''(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

''(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

''SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS.

''If a State agency operates a program or project under this chapter in which individual children are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this chapter for a period of not more than 3 years.

''SEC. 1418. TRANSITION SERVICES.

''(a) TRANSITION SERVICES.—Each State agency shall reserve not 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 its recognized equivalent, into postsecondary education and vocational training programs through strategies designed to expose the youth to, and prepare the youth for, postsecondary education and vocational training programs, such as—

''(A) preplacement programs that allow adjudicated or incarcerated students to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

''(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment;

''(C) essential support services to ensure the success of the youth, such as—

''(i) personal, vocational, and academic counseling;

''(ii) placement services designed to place the youth in a university, college, or junior college program;

''(iii) health services;

''(iv) information concerning, and assistance in obtaining, available student financial aid;

''(v) exposure to cultural events; and

''(vi) job placement services.

''(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

''(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''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 uniform 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 youthful offender program event under 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

''(E) the impact on recidivism reduction for juvenile and adult programs.

''Chapter 2—Local Agency Programs

''SEC. 1421. PURPOSE.

''The purpose of this chapter is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities to—

''(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

''(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

''(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

''SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

''(a) LOCAL SUBGRANTS.—With funds made available under section 1412(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in community day programs).

''(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

''(c) NOTIFICATION.—A State educational agency shall notify local educational agencies

within the State of the eligibility of such agencies to receive a subgrant under this chapter.

"SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

''Eligible local educational agencies desiring assistance under this chapter shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

''(1) a description of the program to be assisted;

''(2) a description of formal agreements between—

''(A) the local educational agency; and

''(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

''(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

''(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at-risk youth in participating schools and youth returning from correctional facilities;

''(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will coordinate existing educational programs to meet unique education needs;

''(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

''(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

''(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

''(9) a description of how the program under this chapter will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Investment Act of 1998 and vocational education programs serving at-risk youth;

''(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

''(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of youth returning from correctional facilities;

''(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

''(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

"SEC. 1424. USES OF FUNDS.

''Funds provided to local educational agencies under this chapter may be used, where appropriate, for—

''(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

''(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

''(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

"SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

''Each correctional facility having an agreement with a local educational agency under section 1423(2) to provide services to youth under this chapter shall—

''(1) where feasible, ensure educational programs in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

''(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

''(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

''(4) provide support programs which encourage youth who have dropped out of school to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

''(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

''(6) ensure educational programs in correctional facilities are related to assisting students to meet high educational standards;

''(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

''(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

''(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds made available under title I of the Workforce Investment Act of 1998, and vocational education funds;

''(10) coordinate programs operated under this chapter with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

''(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

"SEC. 1426. ACCOUNTABILITY.

''The State educational agency may—

''(1) reduce or terminate funding for projects under this chapter if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

''(2) require juvenile facilities to demonstrate, after receiving assistance under this chapter for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

"Chapter 3—General Provisions

"SEC. 1431. PROGRAM EVALUATIONS.

''(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under chapter 1 or 2 shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every 3 years to determine the program's impact on the ability of participants to—

''(1) maintain and improve educational achievement;

''(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

''(3) make the transition to a regular program or other education program operated by a local educational agency;

''(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 multiple and appropriate measures of student progress.

''(c) EVALUATION RESULTS.—Each State agency and local educational agency shall—

''(1) submit evaluation results to the State educational agency and 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.

''(2) AT-RISK YOUTH.—The term 'at-risk youth' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

''(3) COMMUNITY DAY PROGRAM.—The term 'community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

''(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.—The term 'institution for neglected or delinquent children and youth' means—

''(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

''(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.''.

PART E—NATIONAL ASSESSMENT OF TITLE I

SEC. 151. 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 assessment of 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, schools, 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, how schools, local educational agencies, and States have—

''(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;

''(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 individual schools and local educational agencies;

''(E) publicized and disseminated the local educational agencies report cards to teachers, school staff, students, and the community;

''(F) implemented the school improvement requirements described in section 1116, including—

''(i) the number of schools identified for school improvement and how many years 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 public school 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

''(v) the 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) afforded parents meaningful opportunities to be involved in the education of their children at school and at home;

''(J) distributed resources, including the State reservation of funds for school improvement, to target local educational agencies and schools with the greatest need;

''(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 fully qualified in four years.

''(b) STUDENT ACHIEVEMENT.—As part of the national assessment, the Secretary shall evaluate the effectiveness of the programs and services carried out under 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 tracks 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).

''(c) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measures to assess student performance.

''(d) STUDIES AND DATA COLLECTION.—The Secretary may conduct studies and evaluations and collect such data as is necessary to carry out this section either directly or through grants and contracts to—

''(1) assess the implementation and effectiveness of programs under this title;

''(2) collect the data necessary to comply with the Government Performance and Results Act of 1993.

''(e) REPORTING.—The Secretary shall provide to the relevant committees of the Senate and House—

''(1) by December 30, 2004, an interim report on the progress and any interim results of the national assessment of title I; and

''(2) by December 30, 2007, a final report of the results of the assessment.''.

PART F—21st CENTURY LEARNING CENTERS; COMPREHENSIVE SCHOOL REFORM; SCHOOL DROPOUT PREVENTION

SEC. 161. 21st CENTURY LEARNING CENTERS; COMPREHENSIVE SCHOOL REFORM.

Title I (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part I;

(2) by redesignating sections 1601 through 1604 as sections 1901 through 1904, respectively; and

(3) by inserting after part E the following:

''PART F—21st CENTURY COMMUNITY LEARNING CENTERS

''Subpart 1—21st Century Community Learning Centers

''SEC. 1601. SHORT TITLE.

''This subpart may be cited as the '21st Century Community Learning Centers Act'.

''SEC. 1602. PURPOSE.

''The purpose of this subpart is to provide opportunities to communities to establish or expand activities in community learning centers that—

''(1) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student performance standards in core academic subjects, such as reading and mathematics;

''(2) offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and

''(3) offer families of students enrolled in community learning centers opportunities for lifelong learning and literacy development.

''SEC. 1603. DEFINITIONS.

''In this subpart:

''(1) COMMUNITY LEARNING CENTER.—The term 'community learning center' is an entity that—

''(A)(i) assists students to meet State content and student performance standards in core academic subjects, such as reading and mathematics, by primarily providing to the students, during non-school hours or periods when school is not in session, tutorial and other academic enrichment services in addition to other activities (such as youth development activities, drug and violence prevention programs, art, music, and recreation programs, technology education programs, and character education programs) that reinforce and complement the regular academic program of the students; and

''(ii) offers families of students enrolled in such center opportunities for lifelong learning and literacy development; and

''(B) is operated by 1 or more local educational agencies, community-based organizations, units of general purpose local government, or other public or private entities.

''(2) COVERED PROGRAM.—The term 'covered program' means a program for which—

''(A) the Secretary made a grant under part I of title X (as in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(B) the grant period had not ended on that date of enactment.

''(3) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means—

''(A) a local educational agency, a community-based organization, a unit of general purpose local government, or another public or private entity; or

''(B) a consortium of entities described in subparagraph (A).

''(4) STATE.—The term 'State' means the State educational agency of a State (as defined in section 3).

''(5) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means any city, town, township, parish, village, or other general purpose political subdivision.

''SEC. 1604. PROGRAM AUTHORIZED.

''The Secretary is authorized to award grants to States to make awards to eligible organizations to plan, implement, or expand community learning centers that serve—

''(1) students who primarily attend—

''(A) schools eligible for schoolwide programs under section 1114; or

''(B) schools that serve a high percentage of students from low-income families; and

''(2) the families of students described in paragraph (1).

''SEC. 1605. ALLOTMENTS TO STATES.

''(a) RESERVATION.—From the funds appropriated under section 1002(g) for any fiscal year, the Secretary shall reserve—

''(1) such amount as may be necessary to make continuation awards for covered programs to grant recipients under part I of title X (under the terms of those grants), as in effect on the day before the effective date of the Better Education for Students and Teachers Act;

''(2) not more than 1 percent for national activities, which the Secretary may carry out directly or through grants and contracts, such as providing technical assistance to organizations carrying out programs under this subpart or conducting a national evaluation; and

''(3) not more than 1 percent for payments to the outlying areas and the Bureau of Indian Affairs, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, to enable the areas and the Bureau to carry out the objectives of this subpart.

''(b) STATE ALLOTMENTS.—

''(1) DETERMINATION.—

''(A) BASIS.—From the funds appropriated under section 1002(g) for any fiscal year and remaining after the Secretary makes reservations under subsection (a), the Secretary shall allot to each State for the fiscal year an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year, except as provided in subparagraph (B).

''(B) EXCEPTION.—No State receiving an allotment under subparagraph (A) may receive less

than ½ of 1 percent of the total amount allotted under subparagraph (A) for a fiscal year.

''(2) DEFINITION.—In this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1606. STATE PLANS.

''Each State seeking a grant under this subpart shall submit to the Secretary a plan, which may be submitted as part of a State's consolidated plan under section 5502, at such time, in such manner, and containing such information as the Secretary may reasonably require. At a minimum, the plan shall—

''(1) describe how the State will use funds received under this subpart, including funds reserved for State-level activities;

''(2) contain an assurance that the State will make awards under this subpart for eligible organizations only to eligible organizations that propose to serve—

''(A) students who primarily attend—

''(i) schools eligible for schoolwide programs under section 1114; or

''(ii) schools that serve a high percentage of students from low-income families; and

''(B) the families of students described in subparagraph (A);

''(3) describe the procedures and criteria the State will use for reviewing applications and awarding funds to eligible organizations on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed center will help participating students meet local content and performance standards by increasing their academic performance and achievement;

''(4) describe how the State will ensure that awards made under this subpart are—

''(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this subpart; and

''(B) in amounts that are consistent with section 1608(b);

''(5) contain an assurance that the State—

''(A) will not make awards for programs that exceed 4 years;

''(B) will ensure an equitable distribution of awards among urban and rural areas of the State; and

''(C) will require each eligible organization seeking such an award to submit a plan describing how the center to be funded through the award will continue after funding under this subpart ends;

''(6) describe the State's performance measures for programs carried out under this subpart, including measures relating to increased academic performance and achievement, and how the State will evaluate the effectiveness of those programs;

''(7) contain an assurance that funds appropriated to carry out this subpart will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this subpart; and

''(8) contain an assurance that the State will require eligible organizations to describe in their applications under section 1609 how the transportation needs of participating students will be addressed.

"SEC. 1607. STATE-LEVEL ACTIVITIES.

''(a) IN GENERAL.—A State that receives an allotment under section 1605 for a fiscal year shall use not more than 6 percent of the funds made available through the allotment for State-level activities described in paragraphs (1) and (2) of subsection (b).

''(b) ACTIVITIES.—

''(1) PLANNING, PEER REVIEW, AND SUPERVISION.—The State may use not more than 3 percent of the funds made available through the allotment to pay for the costs of—

''(A) establishing and implementing a peer review process for applications described in section 1609 (including consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities);

''(B) supervising the awarding of funds to eligible organizations (in consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities);

''(C) planning and supervising the use of funds made available under this subpart, and processing the funds; and

''(D) monitoring activities.

''(2) EVALUATION, TRAINING, AND TECHNICAL ASSISTANCE.—The State may use not more than 3 percent of the funds made available through the allotment to pay for the costs of—

''(A) comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities provided under this subpart; and

''(B) providing training and technical assistance to eligible organizations who are applicants or recipients of awards under this subpart.

"SEC. 1608. AWARDS TO ELIGIBLE ORGANIZATIONS.

''(a) AWARDS.—A State that receives an allotment under section 1605 for a fiscal year shall use not less than 94 percent of the funds made available through the allotment to make awards on a competitive basis to eligible organizations (including organizations and entities that carry out projects described in section 1609(d)).

''(b) AMOUNTS.—The State shall make the awards in amounts of not less than $50,000.

"SEC. 1609. LOCAL APPLICATION.

''(a) APPLICATION.—To be eligible to receive an award under this subpart, an eligible organization shall submit an application to the State at such time, in such manner, and including such information as the State may reasonably require. Each such application shall include—

''(1) an evaluation of the needs, available resources, and goals and objectives for the proposed community learning center and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families); and

''(2) a description of the proposed community learning center, including—

''(A) a description of how the eligible organization will ensure that the program proposed to be carried out at the center will reinforce and complement the instructional programs of the schools that students served by the program attend;

''(B) an identification of Federal, State, and local programs that will be combined or coordinated with the proposed program in order to make the most effective use of public resources;

''(C) an assurance that the proposed program was developed, and will be carried out, in active collaboration with the schools the students attend;

''(D) evidence that the eligible organization has experience, or demonstrates promise of success, in providing educational and related activities that will complement and enhance the students' academic performance and achievement and positive youth development;

''(E) an assurance that the program will take place in a safe and easily accessible school or other facility;

''(F) a description of how students participating in the program carried out by the center will travel safely to and from the center and home;

''(G) a description of how the eligible organization will disseminate information about the program to the community in a manner that is understandable and accessible;

''(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 eligible organization will, to the maximum extent practicable, carry out the proposed program with community-based organizations that have experience in providing before and after school programs, such as the Young Men's Christian Association (YMCA), the Police Athletic and Activities Leagues, Boys and Girls Clubs, and Big Brothers/Big Sisters of America.

''(b) PRIORITY.—In making awards under this subpart, the State shall give equal priority to applications—

''(1) submitted jointly by schools receiving funding under part A and community-based organizations or other eligible organizations;

''(2) submitted by such schools or consortia of such schools; and

''(3) submitted by community-based organizations or other eligible organizations serving communities in which such schools are located.

''(c) APPROVAL OF CERTAIN APPLICATIONS.—The State may approve an application under this subpart for a program to be located in a facility other than an elementary school or secondary school, only if the program—

''(1) will be accessible to the students proposed in the application to be served; and

''(2) will be as effective as the program would be if the program were located in such a school.

''(d) AFTER SCHOOL SERVICES.—Grant funds awarded under this subpart may be used by organizations or entities to implement programs to provide after school services for limited English proficient students that emphasize language and life skills.

"Subpart 2—Community Technology Centers

"SEC. 1611. PURPOSE; PROGRAM AUTHORITY.

''(a) PURPOSE.—It is the purpose of this subpart to assist eligible applicants to—

''(1) create or expand 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) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—The Secretary is authorized, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist such applicants in—

''(A) creating or expanding community technology centers; or

''(B) 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 subtitle C of 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, for-profit business, public or private nonprofit organization, or community-based organization;

''(B) an institution of higher education;

''(C) a State educational agency;

''(D) a local education agency; or

''(E) a consortium of entities described in subparagraphs (A), (B), (C), or (D).

''(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 services to 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, expansion, 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. 1613. USES OF FUNDS.

''(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

''(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

''(2) evaluating the effectiveness of the project.

''(b) PERMISSIBLE USES.—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 preschool preparation, academic achievement, lifelong learning, and workforce development, such as the following:

''(A) After-school activities in which children and youths 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, such as—

''(i) training in basic and advanced computer skills;

''(ii) resume writing workshops; and

''(iii) access to databases of employment opportunities, career information, and other online materials.

''(D) Small 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 and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

''SEC. 1614. AUTHORIZATION OF APPROPRIATIONS.

''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.

''PART G—COMPREHENSIVE SCHOOL REFORM

''SEC. 1701. PURPOSE.

''The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and scientifically based research programs that emphasize basic academics and parental involvement so that all children can meet challenging State content and student performance standards.

''SEC. 1702. PROGRAM AUTHORIZATION.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1701.

''(2) ALLOTMENTS.—

''(A) RESERVATIONS.—Of the amount appropriated under section 1002(h) for a fiscal year, the Secretary may reserve—

''(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part;

''(ii) not more than 1 percent to conduct national evaluation activities 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 1002(h) that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for that year.

''(C) REALLOTMENT.—If a State does not apply for funds under this section, the Secretary shall reallot such funds to other States that do not apply in proportion to the amount allotted to such other States under subparagraph (B).

''SEC. 1703. STATE APPLICATIONS.

''(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each such application shall describe—

''(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this section;

''(2) how the State educational agency will ensure that funds under this part are limited to comprehensive school reform programs that—

''(A) include each of the components described in section 1706(a);

''(B) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

''(C) are supported by technical assistance providers that have a successful track record and the capacity to deliver high quality materials, professional development for school personnel and on-site support during the full implementation period of the reforms;

''(3) how the State educational agency will disseminate information on comprehensive school reforms that are based on promising and effective practices and scientifically based research programs;

''(4) how the State educational agency will annually evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

''(5) how the State educational agency will make available technical assistance to a local educational agency or consortia of local educational agencies in evaluating, developing, and implementing comprehensive school reform.

''SEC. 1704. STATE USE OF FUNDS.

''(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies or consortia of local educational agencies in the State that receive funds under part A to support comprehensive school reforms in schools that are eligible for funds under part A.

''(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency or consortium shall be—

''(1) of sufficient size and scope to support the initial costs of comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

''(2) in an amount not less than $50,000 for each participating school; and

''(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made if the school is making substantial progress in the implementation of reforms.

''(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies or consortia that—

''(1) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); and

''(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

''(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary students.

''(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

''(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

''(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, 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 subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

"(b) CONTENTS.—Each such application shall—

"(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program, including the projected costs of such a program;

"(2) describe the comprehensive school reforms based on scientifically-based research and effective practices that such schools will implement;

"(3) describe how the local educational agency or consortium will provide technical assistance and support for the effective implementation of the promising and effective practices and scientifically based research school reforms selected by such schools; and

"(4) describe how the local educational agency or consortium will evaluate the implementation of such 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 subgrant under this section shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

"(1) employing 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, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

"(3) providing high quality and continuous teacher and staff professional development;

"(4) the inclusion of measurable goals for student performance;

"(5) support for teachers, principals, administrators, and other school personnel staff;

"(6) meaningful community and parental involvement initiatives that will strengthen school improvement activities;

"(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

"(8) evaluating school reform implementation and student performance; and

"(9) identification of other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the comprehensive school reform effort.

"(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches, but may 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 assisted under this part.

"(b) EVALUATION.—The national evaluation shall—

"(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

"(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

"(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program, which began in 1998, to the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

"SEC. 1708. QUALITY INITIATIVES.

"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 models and to provide effective capacity building for comprehensive school reform providers to expand their work in more schools, assure quality, and promote financial stability.

"PART H—SCHOOL DROPOUT PREVENTION

"SEC. 1801. SHORT TITLE.

"This part may be cited as the 'Dropout Prevention Act'.

"SEC. 1802. PURPOSE.

"The purpose of this part is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants, to schools through State educational agencies, that—

"(1) challenge all children to attain their highest academic potential; and

"(2) ensure that all students have substantial and ongoing opportunities to do so through schoolwide programs proven effective in school dropout prevention.

"Subpart 1—Coordinated National Strategy

"SEC. 1811. NATIONAL ACTIVITIES.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to collect systematic data on the participation in the programs described in paragraph (2)(C) of individuals disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

"(2) to establish and to consult with an interagency working group that shall—

"(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reentry, and assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention;

"(B) describe the ways in which State and local agencies can implement effective school dropout prevention programs using funds from a variety of Federal programs, including the programs under this title; and

"(C) address all Federal programs with school dropout prevention or school reentry elements or objectives, including programs under this title, programs under subtitle C of title I of the Workforce Investment Act of 1998, and other programs; and

"(3) carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized.

"(b) RECOGNITION PROGRAM.—

"(1) NATIONAL GUIDELINES.—The Secretary shall develop uniform national guidelines for the recognition program that shall be used to recognize schools from nominations submitted by State educational agencies.

"(2) ELIGIBLE SCHOOLS.—The Secretary may recognize under the recognition program any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

"(3) SUPPORT.—The Secretary may make monetary awards to schools recognized under the recognition program in amounts determined by the Secretary. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

"(c) CAPACITY BUILDING.—

"(1) IN GENERAL.—The Secretary, through a contract with a non-Federal entity, may conduct a capacity building and design initiative in order to increase the types of proven strategies for dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

"(2) NUMBER AND DURATION.—

"(A) NUMBER.—The Secretary may award not more than 5 contracts under this subsection.

"(B) DURATION.—The Secretary may award a contract under this subsection for a period of not more than 5 years.

"(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

"(1) IN GENERAL.—The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this chapter.

"(2) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity that, prior to the date of enactment of the Dropout Prevention Act—

"(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

"(B) developed and published a specific educational program or design for use by the schools.

"Subpart 2—National School Dropout Prevention Initiative

"SEC. 1821. PROGRAM AUTHORIZED.

"(a) GRANTS.—

"(1) DISCRETIONARY GRANTS.—If the sum appropriated under section 1002(i) for a fiscal year is less than $250,000,000, then the Secretary shall use such sum to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award grants under subsection (b).

"(2) FORMULA.—If the sum appropriated under section 1002(i) for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such sum to make an allotment to each State in an amount that bears the same relation to the sum as the amount the State received under part A for the preceding fiscal year bears to the amount received by all States under such part for the preceding fiscal year.

"(3) DEFINITION OF STATE.—In this subpart, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, Republic of Palau, and Bureau of Indian Affairs for purposes of serving schools funded by the Bureau.

"(b) GRANTS.—From amounts made available to a State under subsection (a), the State educational agency may award grants to public

middle schools or secondary schools that serve students in grades 6 through 12, that have school dropout rates that are the highest of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

''(1) professional development;

''(2) obtaining curricular materials;

''(3) release time for professional staff;

''(4) planning and research;

''(5) remedial education;

''(6) reduction in pupil-to-teacher ratios;

''(7) efforts to meet State student achievement standards;

''(8) counseling and mentoring for at-risk students; and

''(9) comprehensive school reform models.

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (d) and except as provided in paragraph (2), a grant under this subpart shall be awarded—

''(A) in the first year that a school receives a grant payment under this subpart, based on factors such as—

''(i) school size;

''(ii) costs of the model or set of prevention and reentry strategies being implemented; and

''(iii) local cost factors such as poverty rates;

''(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this subpart in the first such year;

''(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this subpart in the first such year; and

''(D) in each succeeding year in an amount that is not less than 30 percent of the amount the school received under this subpart in the first such year.

''(2) INCREASES.—The Secretary shall increase the amount awarded to a school under this subpart by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

''(d) DURATION.—A grant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 1827(a), that significant progress has been made in lowering the school dropout rate for students participating in the program assisted under this subpart compared to students at similar schools who are not participating in the program.

''SEC. 1822. STRATEGIES AND CAPACITY BUILDING.

''Each school receiving a grant under this subpart shall implement scientifically based research, sustainable, and widely replicated strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students. The strategies may include—

''(1) specific strategies for targeted purposes, such as—

''(A) effective early intervention programs designed to identify at-risk students;

''(B) effective programs encompassing traditionally underserved students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school; and

''(C) effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

''(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, developing clear linkages to career skills and employment, and addressing specific gatekeeper hurdles that often limit student retention and academic success.

''SEC. 1823. SELECTION OF SCHOOLS.

''(a) SCHOOL APPLICATION.—

''(1) IN GENERAL.—Each school desiring a grant under this subpart shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) contain a certification from the local educational agency serving the school that—

''(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

''(ii) the local educational agency is committed to providing ongoing operational support, for the school's comprehensive reform plan to address the problem of school dropouts, for a period of 5 years; and

''(iii) the local educational agency will support the plan, including—

''(I) release time for teacher training;

''(II) efforts to coordinate activities for feeder schools; and

''(III) encouraging other schools served by the local educational agency to participate in the plan;

''(B) demonstrate that the faculty and administration of the school have agreed to apply for assistance under this subpart, and provide evidence of the school's willingness and ability to use the funds under this subpart, including providing an assurance of the support of 80 percent or more of the professional staff at the school;

''(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

''(D) describe a budget and timeline for implementing the strategies;

''(E) contain evidence of coordination with existing resources;

''(F) provide an assurance that funds provided under this subpart will supplement and not supplant other Federal, State, and local funds available for dropout prevention programs;

''(G) describe how the activities to be assisted conform with scientifically based research knowledge about school dropout prevention and reentry; and

''(H) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under section 1114.

''(b) STATE AGENCY REVIEW AND AWARD.—The State educational agency shall review applications and award grants to schools under subsection (a) according to a review by a panel of experts on school dropout prevention.

''(c) ELIGIBILITY.—A school is eligible to receive a grant under this subpart if the school is—

''(1) a public school (including a public alternative school)—

''(A) that is eligible to receive assistance under part A, including a comprehensive secondary school, a vocational or technical secondary school, or a charter school; and

''(B)(i) that serves students 50 percent or more of whom are low-income individuals; or

''(ii) with respect to which the feeder schools that provide the majority of the incoming students to the school serve students 50 percent or more of whom are low-income individuals; or

''(2) participating in a schoolwide program under section 1114 during the grant period.

''(d) COMMUNITY-BASED ORGANIZATIONS.—A school that receives a grant under this subpart may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

''(1) the school approves the use;

''(2) the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts; and

''(3) the community-based organization has demonstrated the organization's ability to provide effective services as described in section 122 of the Workforce Investment Act of 1998.

''(e) COORDINATION.—Each school that receives a grant under this subpart shall coordinate the activities assisted under this subpart with other Federal programs, such as programs assisted under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

''SEC. 1824. DISSEMINATION ACTIVITIES.

''Each school that receives a grant under this part shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

''SEC. 1825. PROGRESS INCENTIVES.

''Notwithstanding any other provision of law, each local educational agency that receives funds under this title shall use such funds to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this subpart for 2 fiscal years.

''SEC. 1826. SCHOOL DROPOUT RATE CALCULATION.

''For purposes of calculating a school dropout rate under this subpart, a school shall use—

''(1) the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data, if available; or

''(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

''SEC. 1827. REPORTING AND ACCOUNTABILITY.

''(a) REPORTING.—To receive funds under this subpart for a fiscal year after the first fiscal year that a school receives funds under this subpart, the school shall provide, on an annual basis, to the Secretary and the State educational agency a report regarding the status of the implementation of activities funded under this subpart, the outcome data for students at schools assisted under this subpart disaggregated in the same manner as information under section 1811(a) (such as dropout rates), and a certification of progress from the eligible entity whose strategies the school is implementing.

''(b) ACCOUNTABILITY.—On the basis of the reports submitted under subsection (a), the Secretary shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared to a control group.

''SEC. 1828. STATE RESPONSIBILITIES.

''(a) UNIFORM DATA COLLECTION.—Within 1 year after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this subpart shall report to the Secretary and statewide, all school district and school data regarding school dropout rates in the State disaggregated in the same manner as information under section 1811(a), according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

''(b) ATTENDANCE-NEUTRAL FUNDING POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this subpart shall develop and implement education funding formula policies for public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

''(1) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

''(2) specific incentives for retaining enrolled students throughout each year.

''(c) SUSPENSION AND EXPULSION POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this subpart shall develop uniform, long-term suspension and expulsion policies (that in the case of a child with a disability are consistent with the suspension and expulsion policies under the Individuals with Disabilities Education Act) for serious

infractions resulting in more than 10 days of exclusion from school per academic year so that similar violations result in similar penalties.

''(d) REGULATIONS.—The Secretary shall promulgate regulations implementing subsections (a) through (c).

''Subpart 3—Definitions; Authorization of Appropriations

''SEC. 1831. DEFINITIONS.

''In this part:

''(1) LOW-INCOME.—The term 'low-income', used with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1113(a)(5).

''(2) SCHOOL DROPOUT.—The term 'school dropout' means a youth who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.''.

PART G—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

SEC. 171. STATEMENT OF POLICY.

Section 721(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431(3)) is amended by striking ''should not be'' and inserting ''is not''.

SEC. 172. GRANTS FOR STATE AND LOCAL ACTIVITIES.

Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in subsection (c)—

(A) in paragraph (2)(A)—

(i) by inserting ''and'' after ''Samoa,''; and

(ii) by striking '', and Palau'' and all that follows through ''Palau)''; and

(B) in paragraph (3)—

(i) by inserting ''or'' after ''Samoa,''; and

(ii) by striking '', or Palau'';

(2) in subsection (e), by adding at the end the following:

''(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), 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—

''(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

''(II) reviews the general rights provided under this subtitle; and

''(III) 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 and State Coordinator for Education of Homeless Children and Youth;

''(ii)(aa) provide assistance to the parent or guardian of each homeless child or 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

''(bb) 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;

''(iii) ensure that the parent or guardian (or youth) shall receive the information required by this subparagraph in a manner and form 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); and

''(iv) 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 in the State (such 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 subparagraph (C)(iv)(II) 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 and youth—

''(I) are advised of the choice 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 transportation, promptly to allow homeless children and youth to exercise their choices of schools in accordance with subsection (g)(4);

''(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);

''(iii) prohibit schools within the agency's jurisdiction from referring homeless children or youth to, or requiring homeless children and youth to enroll in or attend, a separate school described in subparagraph (B);

''(iv) identify and 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); and

''(v) not use funds received under this subtitle to establish—

''(I) new or additional separate schools for homeless children or youth, other than schools described in subparagraph (B); or

''(II) new or additional sites for separate schools for homeless children or youth, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

''(F) REPORT.—

''(i) PREPARATION.—

''(I) IN GENERAL.—The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph.

''(II) CONTENTS.—The report shall contain, at a minimum, information on—

''(aa) compliance with all requirements of this paragraph;

''(bb) barriers to school access in the school districts served by the local educational agencies; and

''(cc) the progress the separate schools are making in integrating homeless children and youth into the mainstream school environment, including the average length of student enrollment in such schools.

''(ii) COMPLIANCE WITH INFORMATION REQUESTS.—For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinators for the Education of Homeless Children and Youth, and shall comply with any requests for information by the Secretary and State Coordinators.

''(iii) SUBMISSION.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall submit the report described in clause (i) to—

''(I) the President;

''(II) the Committee on Education and the Workforce of the House of Representatives; 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.'';

(3) by amending subsection (f) to read as follows:

''(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

''(1) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

''(2) develop and carry out the State plan described in subsection (g);

''(3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, such information as the Secretary deems necessary to assess the educational needs of homeless children and youth within the State;

''(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth;

''(5) in order to improve the provision of comprehensive education and related services to homeless children and youth and their families, coordinate and collaborate with—

''(A) educators, including child development and preschool program personnel;

''(B) providers of services to homeless and runaway children and youth and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth);

''(C) local educational agency liaisons for homeless children and youth; and

''(D) community organizations and groups representing homeless children and youth and their families; and

''(6) provide technical assistance to local educational agencies in coordination with local liaisons established under this subtitle, to ensure that local educational agencies comply with the requirements of section 722(e)(3).''; and

(4) in subsection (g)—

(A) in paragraph (1)—

(i) in subparagraph (E)—

(I) by striking ''the report'' and inserting ''the information''; and

(II) by striking ''(f)(4)'' and inserting ''(f)(3)''; and

(ii) by amending subparagraph (H) to read as follows:

''(H) contain assurances that—

''(i) the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not segregated on the basis of their status as homeless or stigmatized; and

''(ii) local educational agencies serving school districts in which homeless children and youth reside or attend school will—

''(I) post public notice of the educational rights of such children and youth where such children and youth receive services under this Act (such as family shelters and soup kitchens); and

''(II) designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a liaison for homeless children and youth.'';

(B) by amending paragraph (3) to read as follows:

''(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

''(A) IN GENERAL.—Each local educational agency serving a homeless child or youth assisted under this subtitle shall, according to the child's or youth's best interest—

''(i) continue the child's or youth's education in the school of origin—

''(I) for the duration of their homelessness;

''(II) if the child becomes permanently housed, for the remainder of the academic year; or

''(III) in any case in which a family becomes homeless between academic years, for the following academic year; or

''(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

''(B) BEST INTEREST.—In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

''(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian, or in the case of an unaccompanied youth, doing so is contrary to the youth's wish; and

''(ii) provide a written explanation to the homeless child's or youth's parent or guardian when the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian.

''(C) ENROLLMENT.—

''(i) DOCUMENTATION.—The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

''(ii) SPECIAL RULE.—The enrolling school immediately shall contact the school last attended by the child or youth to obtain relevant academic and other records. If the child or youth needs to obtain immunizations, the enrolling school shall promptly refer the child or youth to the appropriate authorities for such immunizations.

''(iii) DISPUTES.—If a dispute arises over school selection or enrollment in a school, the child or youth shall be admitted immediately to the school in which the parent or guardian (or in the case of an unaccompanied youth, the youth) seeks enrollment pending resolution of the dispute.

''(D) DEFINITION OF SCHOOL OF ORIGIN.—For purposes of this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

''(E) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.'';

(C) by amending paragraph (6) to read as follows:

''(6) COORDINATION.—

''(A) IN GENERAL.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate the provision of services under this subtitle with local services agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.).

''(B) HOUSING ASSISTANCE.—If applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youth who become homeless.

''(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

''(i) ensure that homeless children and youth have access to available education and related support services; and

''(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in shelters and other challenges associated with homeless children and youth.'';

(D) by amending paragraph (7) to read as follows:

''(7) LIAISON.—

''(A) IN GENERAL.—Each local liaison for homeless children and youth designated pursuant to paragraph (1)(H)(ii)(II) shall ensure that—

''(i) homeless children and youth enroll, and have a full and equal opportunity to succeed, in the schools of the local educational agency;

''(ii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

''(iii) the parents or guardians of homeless children and youth are informed of the education and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children; and

''(iv) public notice of the educational rights of homeless children and youth is posted where such children and youth receive services under this Act (such as family shelters and soup kitchens).

''(B) INFORMATION.—State coordinators in States receiving assistance under this subtitle and local educational agencies receiving assistance under this subtitle shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons for homeless children and youth.

''(C) LOCAL AND STATE COORDINATION.—Liaisons for homeless children and youth shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

''(D) DISPUTE RESOLUTION.—Unless another individual is designated by State law, the local liaison for homeless children and youth shall provide resource information and assist in resolving a dispute under this subtitle if such a dispute arises.''; and

(E) by striking paragraph (9).

SEC. 173. LOCAL EDUCATIONAL AGENCY GRANTS.

Section 723 of such Act (42 U.S.C. 11433) is amended—

(1) in subsection (a), by amending paragraph (2) to read as follows:

''(2) SERVICES.—

''(A) IN GENERAL.—Services provided under paragraph (1)—

''(i) may be provided through programs on school grounds or at other facilities;

''(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals; and

''(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not replace that program.

''(B) SERVICES ON SCHOOL GROUNDS.—If services under paragraph (1) are provided on school grounds, schools—

''(i) may use funds under this subtitle to provide the same services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, subject to clause (ii); and

''(ii) shall not provide services in settings within a school that segregates homeless children and youth from other children and youth, except as is necessary for short periods of time—

''(I) for health and safety emergencies; or

''(II) to provide temporary, special, supplementary services to meet the unique needs of homeless children and youth.'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following:

''(1) an assessment of the educational and related needs of homeless children and youth in the school district (which may be undertaken as a part of needs assessments for other disadvantaged groups);''; and

(C) in paragraph (4) (as so redesignated), by striking ''(9)'' and inserting ''(8)''; and

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—The State educational agency, in accordance with the requirements of this subtitle and from amounts made available to the State educational agency under section 726, shall award grants, on a competitive basis, to local educational agencies that submit applications under subsection (b). Such grants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) QUALITY.—In determining the quality of applications under paragraph (1), the State educational agency shall consider—

''(A) the local educational agency's needs assessment under subsection (b)(1) and the likelihood that the program to be assisted will meet the needs;

''(B) the types, intensity, and coordination of services to be assisted under the program;

''(C) the involvement of parents or guardians;

''(D) the extent to which homeless children and youth will be integrated within the regular education program;

''(E) the quality of the local educational agency's evaluation plan for the program;

''(F) the extent to which services provided under this subtitle will be coordinated with other available services;

''(G) the extent to which the local educational agency provides case management or related services to homeless children and youth who are unaccompanied by a parent or guardian; and

''(H) such other measures as the State educational agency determines indicative of a high-quality program.''.

SEC. 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 the Better Education for Students and Teachers Act, school enrollment guidelines for States with respect to homeless children and youth. The guidelines shall describe—

''(1) successful ways in which a State may assist local educational agencies to enroll immediately homeless children and youth in school; and

''(2) how a State can review the State's requirements regarding immunization and medical or school records and make revisions to the requirements as are appropriate and necessary in order to enroll homeless children and youth in school more quickly.''; and

(5) by adding at the end the following:

''(g) INFORMATION.—

''(1) IN GENERAL.—From funds appropriated under section 726, the Secretary, directly or through grants, contracts, or cooperative agreements, shall periodically collect and disseminate data and information regarding—

''(A) the number and location of homeless children and youth;

''(B) the education and related services homeless children and youth receive;

''(C) the extent to which the needs of homeless children and youth are met; and

''(D) such other data and information as the Secretary determines necessary and relevant to carry out this subtitle.

''(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

''(h) REPORT.—Not later than 4 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall prepare and submit to the President and the appropriate committees of the House of Representatives and the Senate a report on the status of the education of homeless children and youth, which shall include information regarding—

''(1) the education of homeless children and youth; and

''(2) the actions of the Department of Education and the effectiveness of the programs supported under this subtitle.''.

SEC. 175. DEFINITIONS.

Section 725 of such Act (42 U.S.C. 11434a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5), 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 1309(2) of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the 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;'';

(3) in paragraph (4) (as so redesignated), by striking ''and'' after the semicolon;

(4) in paragraph (5) (as so redesignated), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(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) SECRETARIAL RESPONSIBILITIES.—Section 724(f) of such Act (as amended by section 174(3)) is amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

SEC. 178. LOCAL EDUCATIONAL AGENCY SPENDING AUDITS.

(a) AUDITS.—The Office of the Inspector General of the Department of Education shall conduct not less than 6 audits of local education 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 specifically how local education 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 payment of janitorial, utility and other maintenance services, the purchase and lease of vehicles, and the payment for travel and attendance costs at conferences.

(b) REPORT.—Not later than 3 months after the completion of the audits under subsection (a) in each year, the Office of 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.

''The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to—

''(1) increase student academic achievement and student performance through such strategies as improving teacher quality and increasing the number of highly qualified teachers in the classroom;

''(2) hold local educational agencies and schools accountable so that all teachers teaching core academic subjects in public elementary schools and secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified; and

''(3) hold local educational agencies and schools accountable for improvements in student academic achievement and student performance.

''SEC. 2102. DEFINITIONS.

''In this part:

''(1) ALL STUDENTS.—The term 'all students' means students from a broad range of backgrounds and circumstances, including economically disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, and academically talented students.

''(2) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 5120.

''(3) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' means English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

''(4) HIGHLY QUALIFIED.—The term 'highly qualified' means—

''(A) with respect to an elementary school teacher, a teacher—

''(i)(I) with an academic major in the arts and sciences; or

''(II) who can demonstrate competence through a high level of performance in core academic subjects; and

''(ii) who is certified or licensed by the State involved, except for a teacher in a charter school in a State that has a charter school law that exempts such a teacher from State certification and licensing requirements;

''(B) with respect to a secondary school teacher hired before the date of enactment of the Better Education for Students and Teachers Act, a teacher—

''(i)(I) with an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the teacher teaches or a related field;

''(II) who can demonstrate a high level of competence through rigorous academic subject tests and achievement of a high level of competence as described in subclause (III); or

''(III) who can demonstrate a high level of competence through a high level of performance in the academic subjects that the teacher teaches, based on a high and objective uniform standard that is—

''(aa) set by the State for both grade appropriate academic subject knowledge and teaching skills;

''(bb) the same for all teachers in the same academic subject and same grade level throughout the State; and

''(cc) a written standard that is developed in consultation with teachers, parents, principals, and school administrators and made available to the public upon request; and

''(ii) who is certified or licensed by the State, except for a teacher in a charter school in a State that has a charter school law that exempts such a teacher from State certification and licensing requirements; and

''(C) with respect to a secondary school teacher hired after the date of enactment of the Better Education for Students and Teachers Act, a teacher that meets the requirements of subclause (I) or (II) of subparagraph (B)(i).

''(5) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term 'high need local educational agency' has the meaning given the term in section 201(b) of the Higher Education Act of 1965.

''(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965.

''(7) OUT-OF-FIELD TEACHER.—The term 'out-of-field teacher' means a secondary school teacher who is teaching an academic subject for which the teacher is not highly qualified.

''(8) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

''(9) PROFESSIONAL DEVELOPMENT.—The term 'professional development' means activities that—

''(A) are an integral part of broad schoolwide and districtwide educational improvement plans;

''(B) enhance the ability of teachers and other staff to—

''(i) help all students meet challenging State and local content and student performance standards;

''(ii) improve understanding and use of student assessments by the teachers and staff;

''(iii) improve classroom management skills;

''(iv) as appropriate, integrate technology into the curriculum; and

''(v) encourage and provide instruction on how to work with and involve parents to foster student achievement;

''(C) are sustained, intensive, and school-embedded;

''(D) are aligned with—

''(i) State content standards, student performance standards, and assessments; and

''(ii) the curricula and programs tied to the standards described in clause (i);

''(E) are of high quality and sufficient duration to have a positive and lasting impact on classroom instruction, and are not one-time workshops; and

''(F) are based on the best available research on teaching and learning.

''(10) TEACHER MENTORING.—The term 'teacher mentoring' means activities that—

''(A) consist of structured guidance and regular and ongoing support for beginning teachers, that—

''(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

''(ii) as part of a multiyear, developmental induction process—

''(I) involve the assistance of a mentor teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

''(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

''(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

''SEC. 2103. AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS TO STATES, LOCAL EDUCATIONAL AGENCIES, AND ELIGIBLE PARTNERSHIPS.—There are authorized to be appropriated to carry out this part (other than subpart 5) $3,000,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) NATIONAL PROGRAMS.—There are authorized to be appropriated to carry out subpart 5 (other than subsections (b), (e), and (f)) $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''Subpart 1—Grants to States

''SEC. 2111. ALLOTMENTS TO STATES.

''(a) IN GENERAL.—The Secretary shall make grants to States with applications approved under section 2112 to pay for the Federal share of carrying out the activities specified in section 2113. Each grant shall consist of the allotment determined for a State under subsection (b).

''(b) DETERMINATION OF ALLOTMENTS.—

''(1) RESERVATION OF FUNDS.—

''(A) IN GENERAL.—From the total amount appropriated under section 2103(a) for a fiscal year, the Secretary shall reserve—

''(i) ½ of 1 percent for payments to the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary, for activities authorized under this part relating to teacher quality, including professional development and teacher hiring; and

''(ii) ½ of 1 percent for payments to the Secretary of the Interior for activities described in clause (i) in schools operated or funded by the Bureau of Indian Affairs.

''(B) LIMITATION.—In reserving an amount for the purposes described in clauses (i) and (ii) of subparagraph (A) for a fiscal year, the Secretary shall not reserve more than the total amount the outlying areas and the schools operated or funded by the Bureau of Indian Affairs received for fiscal year 2001 under—

''(i) section 2202(b) of this Act (as in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

''(2) STATE ALLOTMENTS.—

''(A) HOLD HARMLESS.—

''(i) IN GENERAL.—Subject to subparagraph (B), from the total amount appropriated under section 2103(a) for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under the authorities described in paragraph (1)(B).

''(ii) RATABLE REDUCTION.—If the total amount appropriated under section 2103(a) for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for the fiscal year, the Secretary shall ratably reduce such amounts for the fiscal year.

''(B) ALLOTMENT OF ADDITIONAL FUNDS.—

''(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount appropriated under section 2103(a) and not reserved under paragraph (1) exceeds the total amount made available to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for fiscal year 2001 under the authorities described in paragraph (1)(B), the Secretary shall allot to each of those States the sum of—

''(I) an amount that bears the same relationship to 35 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

''(II) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

''(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under clause (i) for a fiscal year.

''(3) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

''SEC. 2112. STATE APPLICATIONS.

''(a) IN GENERAL.—For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each application submitted under this section shall include the following:

''(1) A description of how the activities to be carried out by the State educational agency under this subpart will be based on a review of relevant research and an explanation of why the activities are expected to improve student performance and outcomes.

''(2) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with State content standards, student performance standards, and assessments.

''(3) A description of how the State educational agency will ensure that a local educational agency receiving a subgrant to carry out subpart 2 will comply with the requirements of such subpart.

''(4) A description of how the State educational agency will use funds made available under this part to improve the quality of the State's teaching force and the educational opportunities for students.

''(5) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs, including those authorized under—

''(A) title I, part C of this title, part A of title III, and title IV; and

''(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

''(6) A description of how the activities to be carried out by the State educational agency under this subpart will be developed collaboratively based on the input of teachers, 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 State under section 2142(a)(1) so that all teachers in the State who are teaching core academic subjects in public elementary schools and secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified not later than the end of the fourth

year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act).

''(10) An assurance that the State educational agency will consistently monitor the progress of each local educational agency and school in the State in achieving the purpose of this part and meeting the performance objectives described in section 2142.

''(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, a description of the basis for the exemption.

''(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 unless the Secretary makes a written determination, within 90 days after receiving the application, that the application does not meet the requirements of this Act.

''SEC. 2113. STATE USE OF FUNDS.

''(a) IN GENERAL.—A State that receives a grant under section 2111 shall—

''(1) reserve 2 percent of the funds made available through the grant for State activities described in subsection (b);

''(2) reserve 95 percent of the funds to make subgrants to local educational agencies as described in subpart 2; and

''(3) reserve 3 percent of the funds to make subgrants to local partnerships as described in subpart 3.

''(b) STATE ACTIVITIES.—The State educational agency for a State that receives a grant under section 2111 shall use the funds reserved under subsection (a)(1) to carry out 1 or more of the following activities, including through a grant or contract with a for-profit or nonprofit entity:

''(1) Reforming teacher certification (including recertification) or licensing requirements to ensure that—

''(A) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

''(B) the requirements are aligned with challenging State content standards; and

''(C) teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students meet challenging State student performance standards.

''(2) Carrying out programs that provide support during the initial teaching experience, such as programs that provide teacher mentoring, team teaching, reduced schedules, and intensive professional development.

''(3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers for highly qualified individuals with a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers.

''(4) Providing assistance to teachers to enable teachers to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year described in section 2112(b)(9).

''(5) Developing and implementing effective mechanisms to assist local education agencies and schools in effectively recruiting and retaining highly qualified teachers and principals, and in cases in which a State deems appropriate, pupil services personnel.

''(6) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified and effective teachers and principals, including teaching specialists in core academic subjects.

''(7) Funding projects to promote reciprocity of teacher certification or licensure between or among States.

''(8) Testing new teachers for subject matter knowledge, and testing the teachers for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

''(9) Supporting activities that ensure that teachers are able to use State content standards, student performance standards, and assessments to improve instructional practices and improve student achievement and student performance.

''(10) Establishing teacher compensation systems based on merit and proven performance.

''(11) Reforming tenure systems.

''(12) Funding projects and carrying out programs to encourage men to become elementary school teachers.

''(13) Establishing and operating a center that—

''(A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

''(B) establishes and carries out programs to improve teacher recruitment and retention within the State.

''(14) Supporting the activities of education councils and professional development schools, involving partnerships described in paragraphs (1) and (3) of subsection (c), respectively, for the purpose of—

''(A) preparing out-of-field teachers to be qualified to teach all of the classes that the teachers are assigned to teach;

''(B) preparing paraprofessionals to become fully qualified teachers in areas served by high need local educational agencies;

''(C) supporting teams of master teachers and student teacher interns as a part of an extended teacher education program; and

''(D) supporting teams of master teachers to serve in low-performing schools.

''(15) Providing professional development for teachers and pupil services personnel.

''(16) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including the ability to collect, manage, and analyze data to improve teaching, decision making and school improvement efforts and accountability.

''(17) Developing or supporting programs that encourage or expand the use of technology to provide professional development, including through Internet-based distance education and peer networks.

''(18) Fulfilling the State's responsibilities concerning proper and efficient administration of the program carried out under this part.

''(c) COORDINATION.—A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 202.

''Subpart 2—Subgrants to Local Educational Agencies

''SEC. 2121. ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.

''(a) IN GENERAL.—A State that receives a grant under section 2111 shall use the funds reserved under section 2113(a)(2) to make subgrants to eligible local educational agencies to carry out the activities specified in section 2123. Each subgrant shall consist of the allocation determined for a local educational agency under subsection (b).

''(b) DETERMINATION OF ALLOCATIONS.—From the total amount made available through the grant, the State shall allocate to each of the eligible local educational agencies the sum of—

''(1) an amount that bears the same relationship to 20 percent of the total amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and

''(2) an amount that bears the same relationship to 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 section shall be based on the needs assessment required in subsection (c) and shall include the following:

''(1)(A) A description of the activities to be carried out by the local educational agency under this subpart and how these activities will be aligned with—

''(i) State content standards, performance standards, and assessments; and

''(ii) the curricula and programs tied to the standards described in clause (i).

''(B) A description of how the activities will be based on a review of relevant research and an explanation of why the activities are expected to improve student performance and outcomes.

''(2) A description of how the activities will have a substantial, measurable, and positive impact on student academic achievement and student performance and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority students from other students.

''(3) An assurance that the local educational agency will target funds to schools served by the local educational agency that—

''(A) have the lowest proportions of highly qualified teachers;

''(B) are identified for school improvement under section 1116(c); or

''(C) are identified for school improvement in accordance with other measures of school quality as determined and documented by the local educational agency.

''(4) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided under other Federal, State, and local programs, including those authorized under—

''(A) title I, part C of this title, part A of title III, and title IV; and

''(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

''(5) A description of how the local educational agency will ensure that the professional development (including teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

''(6) A description of the professional development (including teacher mentoring) activities that will be made available to teachers under this subpart.

''(7) A description of how the local educational agency, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of activities to be carried out under this subpart and in the preparation of the application.

''(8) A description of the results of the needs assessment described in subsection (c).

''(9) A description of how the local educational agency will address the ongoing professional development (including teacher mentoring) needs of teachers, principals, and administrators.

''(10) A description of local performance objectives established under section 2142(a)(2).

''(11) A description of how the local educational agency will provide training to enable teachers 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; and

''(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. 2123. LOCAL USE OF FUNDS.

''(a) SPECIAL RULE.—

''(1) IN GENERAL.—A local educational agency that receives a subgrant under section 2121 may use the amount described in paragraph (2), of the funds made available through the subgrant, to carry out activities described in section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

''(2) AMOUNT.—The amount referred to in paragraph (1) is the amount received by the agency under that section 306.

''(b) LOCAL USE OF FUNDS.—A local educational agency that receives a subgrant under section 2121 shall use the funds made available through the subgrant to carry out 1 or more of the following activities, including through a grant or contract with a for-profit or nonprofit entity:

''(1) Providing professional development activities that improve the knowledge of teachers and principals concerning—

''(A) 1 or more of the core academic subjects that the teachers and principals teach;

''(B) effective instructional strategies, methods, 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, using such strategies as—

''(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 a forum for interaction among teachers and administrators about content knowledge and teaching and leadership skills; and

''(vi) the provision of release time as needed for the activities; and

''(G) teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master teacher career paths) and pay differentiation.

''(2) Teacher mentoring.

''(3) Providing teachers, principals, and, in cases in which a local education agency deems appropriate, pupil services personnel with opportunities for professional development through institutions of 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 paraprofessional-to-teacher training programs and programs that attract mid-career professionals from other professions), hiring, and training regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children, and may include recruiting and hiring certified or licensed teachers to reduce class size), and teachers of special needs children, who are highly qualified as well as teaching specialists in core academic subjects who will provide increased 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 or credentialed 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 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.

A contract described in clause (vi) shall include stipends, employee benefits, a description of duties and work schedule, and other terms of employment.

''(B) STUDY AND REPORT.—

''(i) 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.

''(ii) 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.

''(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 2113(a)(3) to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 2133.

''(b) DISTRIBUTION.—The State agency for higher education shall ensure that—

''(1) such subgrants are equitably distributed by geographic area within a State; or

''(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

''(c) SPECIAL RULE.—No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

''SEC. 2132. APPLICATIONS.

''To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

''SEC. 2133. USE OF FUNDS.

''(a) IN GENERAL.—An eligible partnership that receives a subgrant under section 2131 shall use the funds made available through the subgrant for—

''(1) professional development activities in core academic subjects to ensure that teachers, paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach, including the use of computer related technology to enhance student learning; and

''(2) developing and providing assistance to local educational agencies and individuals who are teachers, paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that—

''(A) ensure that the individuals are able to use State content standards, performance standards, and assessments to improve instructional practices and improve student academic achievement and student performance;

''(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; 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) COORDINATION.—An eligible partnership that receives a subgrant to carry out this subpart and a grant under section 203 of the Higher

Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 203.

''(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 title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.); 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.

''(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) PROFESSIONAL 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)(i) provides sustained and high quality preservice clinical experience, including the mentoring of prospective teachers by veteran teachers;

''(ii) 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

''(iii) provides support, including preparation time, for such interaction.

''SEC. 2134. DEFINITION.

''In this subpart, the term 'eligible partnership' means an entity that—

''(1) shall include—

''(A) a private or State institution of higher education and the division of the institution that prepares teachers;

''(B) a school of arts and sciences; and

''(C) a high need local educational agency; and

''(2) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, or a business.

''Subpart 4—Accountability

''SEC. 2141. STATE PERFORMANCE OBJECTIVES AND ACCOUNTABILITY.

''(a) REQUIRED ACTIVITIES.—Each State educational agency receiving a grant under this part shall establish for the State annual measurable performance objectives, with respect to teachers teaching in the State, that, at a minimum—

''(1) shall include an annual increase in the percentage of highly qualified teachers, to ensure that all teachers teaching core academic subjects in public elementary schools and secondary schools, in which not less than 50 percent of the students are from low-income families, are highly qualified not later than the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act);

''(2) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development (including teacher mentoring); and

''(3) may include incremental increases in teacher performance.

''(b) RULE OF APPLICATION.—For purposes of determining whether teachers in a State meet the criteria specified in the performance objectives referred to in subsection (a), the requirements of subsection (a) shall not apply to teachers in charter schools in the State if the State has a charter school law that exempts such teachers from State certification and licensing requirements.

''(c) REPORTS.—

''(1) INITIAL REPORTS.—Not later than the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act), each State educational agency receiving a grant under this part shall prepare and submit to the Secretary an initial report describing the State's progress with respect to the performance objectives described in this section.

''(2) SUBSEQUENT REPORTS.—

''(A) STATES SUBJECT TO SANCTIONS.—The State educational agency for a State that has received sanctions under subsection (d) shall annually prepare and submit to the Secretary a report describing such progress, until the State is no longer subject to the sanctions.

''(B) STATES NOT SUBJECT TO SANCTIONS.—A State educational agency that is not required to submit annual reports under subparagraph (A) shall periodically prepare and submit to the Secretary a report describing such progress, to ensure that the State is in compliance with the requirements of this section.

''(d) ACCOUNTABILITY.—

''(1) REDUCTION OF FUNDS.—

''(A) FOURTH YEAR.—If the Secretary determines that the State educational agency has failed to meet the performance objectives established under subsection (a), and has failed to make adequate yearly progress as described under section 1111(b)(2), by the end of the fourth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act), the Secretary shall withhold 15 percent of the amount of funds that the State may reserve for State administration under this part for the fifth year for which the State receives such funds.

''(B) FIFTH OR SIXTH YEAR.—If the Secretary determines that the State educational agency has failed to meet the performance objectives established under subsection (a), and has failed to make adequate yearly progress as described under section 1111(b)(2), by the end of the fifth or sixth year for which the State receives funds under this part (as amended by the Better Education for Students and Teachers Act), the Secretary shall withhold 20 percent of the amount of funds that the State may reserve for State administration under this part for the sixth or seventh year, respectively, for which the State receives such funds.

''(2) EXEMPTION.—After making a determination for a year under paragraph (1), the Secretary may provide the State 1 additional year to meet the performance objectives described in subsection (a) or make such adequate yearly progress, before using a sanction described in paragraph (1), if the State demonstrates that exceptional or uncontrollable circumstances have occurred, such as—

''(A) a natural disaster; or

''(B) a situation in which—

''(i) a significant number of teachers has resigned, with insufficient notice, from employment with a local educational agency in the State that has historically had difficulty recruiting and hiring teachers; and

''(ii) the remaining local educational agencies in the State, collectively, have met the performance objectives described in subsection (a) and have made such adequate yearly progress by the end of the year for which the Secretary makes the determination.

''SEC. 2142. LOCAL PERFORMANCE OBJECTIVES AND ACCOUNTABILITY.

''(a) REQUIRED ACTIVITIES.—

''(1) ESTABLISHMENT BY STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall establish for local educational agencies in the State annual measurable performance objectives, with respect to teachers serving the local educational agencies, that, at a minimum—

''(A) shall include the increases described in paragraphs (1) and (2) of section 2141(a); and

''(B) may include the increases described in section 2141(a)(3).

''(2) ESTABLISHMENT BY LOCAL EDUCATIONAL AGENCIES.—Each local educational agency receiving a subgrant under this part—

''(A) shall establish for the local educational agency an annual measurable performance objective for increasing teacher retention among teachers in the first 3 years of their teaching careers; and

''(B) may establish other annual measurable performance objectives.

''(b) REPORTS.—Each local educational agency receiving a subgrant under this part shall annually prepare and submit to the State educational agency a report describing the progress of the local educational agency toward achieving the purpose of this part and meeting the performance objectives described in subsection (a).

''(c) TECHNICAL ASSISTANCE.—If a State educational agency determines that a local educational agency in the State has failed to make substantial progress toward achieving the purpose and meeting the performance objectives described in subsection (a) and has failed to make adequate yearly progress as described under section 1111(b)(2) for 2 consecutive years for which the local educational agency receives funds under this part (as amended by the Better Education for Students and Teachers Act), the State educational agency shall provide technical assistance—

''(1) to the local educational agency; and

''(2) if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to achieve the purpose and meet the performance objectives.

''(d) ACCOUNTABILITY.—If the State educational agency determines that the local educational agency has failed to make substantial progress toward achieving the purpose and meeting the performance objectives described in subsection (a), and has failed to make adequate yearly progress as described under section 1111(b)(2), for 3 consecutive years for which the local educational agency receives funds under this part (as amended by the Better Education for Students and Teachers Act), the State educational agency shall—

''(1) withhold the allocation described in section 2121(b) from the local educational agency for 2 fiscal years; and

''(2) use the funds to carry out programs to assist the local educational agency to achieve the purpose and meet the performance objectives

''SEC. 2143. GENERAL ACCOUNTING OFFICE STUDY.

''Not later than January 1, 2005, the Comptroller General of the United States shall prepare and submit to Congress a report setting forth information regarding—

''(1) the progress of the States in achieving compliance concerning increasing the percentage of highly qualified teachers, for fiscal years 2001 through 2003, so that, not later than the end of the fourth year for which the States receive funds under this part (as amended by the Better Education for Students and Teachers Act), all teachers teaching core academic subjects in public elementary schools or secondary

schools, in which not less than 50 percent of the students are from low-income families, are highly qualified;

''(2) any significant obstacles that States face in achieving that compliance, such as teacher shortages in particular academic subjects, grade levels, or geographic areas, district-to-district pay differentials, and particular provisions of collective bargaining agreements; and

''(3) the approximate percentage of Federal, State, and local resources being expended to carry out activities to provide professional development for teachers, and recruit and retain highly qualified teachers, especially in geographic areas and core academic subjects in which a shortage of such teachers exists, so that, not later than the end of the fourth year for which the States receive funds under this part (as amended by the Better Education for Students and Teachers Act), all teachers teaching core academic subjects in public elementary schools or secondary schools, in which not less than 50 percent of the students qualify for free or reduced price lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), are highly qualified.

''Subpart 5—National Programs

''SEC. 2151. NATIONAL PROGRAMS OF DEMONSTRATED EFFECTIVENESS.

''(a) IN GENERAL.—The Secretary shall use funds made available under section 2103(b) to carry out each of the activities described in subsections (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 served by the local educational agency are students in poverty.

''(B) POVERTY LINE.—The term 'poverty line' means the income 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.

''(C) STUDENT IN POVERTY.—The term 'student in poverty' means a student from a family with an income below the poverty line.

''(2) PROGRAM.—The Secretary shall establish and carry out a national principal recruitment program.

''(3) GRANTS.—

''(A) 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).

''(B) 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 incentives, and professional development and instructional leadership training programs, to attract individuals from other fields, including business and law, to serve as principals.

''(C) 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 comprehensive plan for recruitment and training of principals, including plans for mentorship programs, ongoing professional development, and instructional leadership training, for high-need schools served by the agency.

''(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 the 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 public 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.

''(c) ADVANCED CERTIFICATION OR ADVANCED CREDENTIALING.—

''(1) IN GENERAL.—The Secretary shall support activities to encourage and support teachers seeking advanced certification or advanced credentialing through high quality professional teacher enhancement programs designed to improve teaching and learning.

''(2) IMPLEMENTATION.—In carrying out paragraph (1), the Secretary shall make grants to the National Board for Professional Teaching Standards, State educational agencies, local educational agencies, or other recognized entities, to promote outreach, teacher recruitment, teacher subsidy, or teacher support programs related to teacher certification by the National Board for Professional Teaching Standards and other nationally recognized certification organizations.

''(d) TRANSITION TO TEACHING.—The Secretary shall provide assistance for activities to support the development and implementation of national or regional programs to—

''(1) recruit, prepare, place, and support mid-career professionals who have knowledge and experience that will help the professionals become highly qualified teachers, through alternative routes to certification, for high need local educational agencies; and

''(2) help retain the professionals as classroom teachers serving the local educational agencies for more than 3 years.

''(e) CAREERS TO 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 State-approved programs that enable individuals to be eligible for teacher certification within a reduced period of time, relying on the experience, expertise, and academic qualifications of an individual, or other factors in lieu of traditional course work in the field of education.

''(2) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means—

''(i) an individual with substantial, demonstrable career experience and competence in a field for which there is a significant shortage of qualified teachers, such as mathematics, natural science, technology, engineering, and special education;

''(ii) an individual who is a graduate of an institution of higher education who—

''(I) has graduated not later than 3 years before applying to an agency or consortium to teach under this subsection;

''(II) in the case of an individual wishing to teach in a secondary school, has completed an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the individual will teach;

''(III) has graduated in the top 50 percent of the individual's undergraduate or graduate class;

''(IV) can demonstrate a high level of competence through a high level of performance in the academic subject that the individual will teach; and

''(V) meets any additional academic or other standards or qualifications established by the State; or

''(iii) a paraprofessional who—

''(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.

''(C) HIGH NEED SCHOOL.—The term 'high need school' means a school that—

''(i)(I) is located in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more; or

''(II) 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 or that has experienced greater than normal difficulty in recruiting or retaining teachers; and

''(ii) is located in an area in which there is a high percentage of secondary school teachers not teaching in the content area in which teachers were trained to teach, is within the top quartile of schools statewide, as ranked by the number of unfilled, available teacher positions at the schools, is located in an area in which there is a high teacher turnover rate, or is located in an area in which there is a high percentage of teachers who are not certified or licensed.

''(D) HIGH NEED SCHOOL DISTRICT.—The term 'high need school district' means a school district in which there is—

''(i)(I) a high need school; and

''(II) a high percentage of individuals from families with incomes below the poverty line; and

''(ii)(I) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach; or

''(II) a high teacher turnover rate.

''(E) POVERTY LINE.—The term 'poverty line' means the income 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.

''(3) 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 State and local teacher corps or other programs to establish, expand, or 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 or a nonprofit 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) explain 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) explain 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 how the agency or consortium described in paragraph (3) has met the requirements of subparagraph (C);

''(viii) describe how the agency or consortium will coordinate the activities carried out with the funds with activities carried out with other Federal, State, and local funds for teacher recruitment and retention;

''(ix) describe the plan of the agency or consortium described in paragraph (3) to recruit and retain highly qualified teachers in the high need academic subjects and high need schools and facilitate the certification or licensing of such teachers; and

''(x) describe how the agency or consortium described in paragraph (3) will meet the requirements of paragraph (7)(A).

''(C) COLLABORATION.—In developing the application, the agency or consortium shall consult with and seek input from—

''(i) in the case of a partnership established by a State educational agency or consortium of such agencies, representatives of local educational agencies, including teachers, principals, superintendents, and school board members (including representatives of their professional organizations if appropriate);

''(ii) in the case of a partnership established by a local educational agency or a consortium of such agencies, representatives of a State educational agency;

''(iii) elementary school and secondary school teachers, including representatives of their professional organizations;

''(iv) institutions of higher education;

''(v) parents; and

''(vi) other interested individuals and organizations, such as businesses, experts in curriculum development, and nonprofit organizations with a proven record of effectively recruiting and retaining highly qualified teachers in high need school districts.

''(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 grant recipient may apply for an additional grant under this subsection.

''(6) EQUITABLE DISTRIBUTION.—The Secretary shall ensure an equitable 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 give priority to the schools that are located in areas with the highest percentage of students from families with incomes below the poverty line.

''(B) SUPPLEMENT 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 programs, 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 section.

''(8) USES 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 to develop a teacher corps or other program in order to establish, expand, or enhance a teacher recruitment and retention program for highly qualified mid-career professionals, graduates of institutions of higher education, and paraprofessionals, who are eligible participants, including activities that provide alternative routes to teacher certification.

''(B) 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 that consist of—

''(i)(I) providing loans, scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have proven effective in retaining teachers in higher 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 certification in that State; and

''(II) giving a preference, in awarding the loans, scholarships, stipends, bonuses, and other financial incentives, to individuals who the State determines have financial need for such loans, scholarships, stipends, bonuses, and other financial incentives;

''(ii) making payments (in an amount of not more than $5,000 per eligible participant) to schools to pay for costs associated with accepting teachers recruited under this subsection from among eligible participants or to provide financial incentives to prospective teachers who are eligible participants;

''(iii) providing mentoring;

''(iv) providing internships;

''(v) carrying out co-teaching arrangements;

''(vi) providing high quality, sustained in-service professional development opportunities;

''(vii) offering opportunities for teacher candidates to participate in preservice, high quality course work;

''(viii) collaboration with institutions of higher education in developing and implementing programs to facilitate teacher recruitment (including teacher credentialing) and teacher retention programs;

''(ix) 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 provide full pay and leave from paraprofessional duties for the period necessary to complete the degree and become certified or licensed; and

''(x) carrying out other programs, projects, and activities that—

''(I) are designed and have proven to be effective in recruiting and retaining teachers; and

''(II) the Secretary determines to be appropriate.

''(C) DEVELOPMENT OF LONG-TERM RECRUITMENT AND RETENTION STRATEGIES.—In addition to the activities authorized under subparagraph (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 and operation, 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 long-term 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 immediately repay amounts received under such loan, and the recipient of a scholarship, stipend, bonus, or other financial incentive under this subsection shall repay amounts received under such scholarship, stipend, bonus, or other financial incentive, to the agency or consortium from which the loan, scholarship, stipend, bonus, or other financial incentive was received if—

''(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; or

''(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 application.

''(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.

''(D) REVOCATION.—If the Secretary determines that the recipient 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) shall not make a payment for the fifth year of the grant period.

''(12) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(f) NATIONAL TEACHER RECRUITMENT CAMPAIGN.—

''(1) GRANT.—The Secretary shall award a grant, on a competitive basis, to a single national coalition of teacher and media organizations, including the National Teacher Recruitment Clearinghouse, to enable such organizations to jointly conduct a national public service campaign as described in paragraph (2).

''(2) USE OF FUNDS.—A coalition that receives a grant under paragraph (1) shall use amounts made available under the grant to conduct a national public service campaign concerning the resources for and routes to entering the field of teaching. In conducting the campaign, the coalition shall focus on providing information both to a national audience and in specific media markets, and shall specifically expand on, promote, and link the coalition's outreach efforts to, the information referral activities and resources of the National Teacher Recruitment Clearinghouse.

''(3) APPLICATION.—To be eligible to receive a grant under this subsection, a coalition shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 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 with scientists, mathematicians, and engineers to increase the subject matter knowledge and improve the teaching skills of teachers through the use of more sophisticated laboratory equipment and space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the schools;

''(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 engineering, mathematics and science, respectively; and

''(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 engineering, 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, that—

''(A) is conducted during a period of not less than 2 weeks;

''(B) provides for a program that provides direct interaction between students and faculty; and

''(C) provides for followup training during the academic year that—

''(i) except as provided in clause (ii) or (iii), shall be conducted in the classroom for a period of not less than 3 days, which may or may not be consecutive;

''(ii) if the program described in subparagraph (B) is for a period of not more than 2 weeks, shall be conducted for a period of more than 3 days; or

''(iii) if the program is for teachers in rural school districts, may be conducted through distance education.

''Subpart 1—Grants to Partnerships

''SEC. 2211. GRANTS AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of carrying out the authorized activities described in section 2213.

''(b) DURATION.—The Secretary shall award grants under this section for a period of 5 years.

''(c) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the costs of the activities assisted under this subpart shall be—

''(A) 75 percent of the costs for the first year an eligible partnership receives a grant payment under this subpart;

''(B) 65 percent of the costs for the second such year; and

''(C) 50 percent of the costs for each of the third, fourth, and fifth such years.

''(2) NON-FEDERAL SHARE.—The non-Federal share of the costs may be provided in cash or in kind, fairly evaluated.

''(d) PRIORITY.—In awarding grants under this subpart the Secretary shall give priority to partnerships that include high need local educational agencies or a consortium of local educational agencies that include a high need local education agency.

''SEC. 2212. APPLICATION REQUIREMENTS.

''(a) IN GENERAL.—Each eligible partnership desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONTENTS.—Each such application shall include—

''(1) 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 include, 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 a review of relevant research, and an explanation of why the activities are expected to improve student performance and to strengthen the quality of mathematics and science instruction;

''(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 curricula that are aligned with State and local standards and with the standards expected for postsecondary study in mathematics and science, respectively.

''(2) Creating opportunities for enhanced and ongoing professional development that improves the subject matter knowledge of mathematics and science teachers.

''(3) Recruiting mathematics and science majors to teaching 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 alternative 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 field.

''(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 followup training) for teachers, using curricula that are experiment-oriented, content-based, and grounded in research that is current as of the date of the workshop or institute involved.

''(6) Establishing distance learning programs for mathematics and science teachers using curricula that are innovative, content-based, and grounded in research that is current as of the date of the program involved.

''(7) Designing programs to prepare a teacher at a school to provide professional development to other teachers at the school and to assist novice teachers at such school, including (if applicable) a mechanism to integrate experiences from a summer workshop or institute.

''(8) Designing programs to bring teachers into contact with working 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 or science teachers under which—

''(A) experienced mathematics or science teachers who are licensed or certified to teach in the State demonstrate 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 assisted under this subpart that includes strong performance objectives. The plan shall include objectives and measures for—

''(1) improved student performance on State mathematics and science assessments or the Third International Math and Science Study assessment;

''(2) increased participation by students in advanced courses in mathematics and science;

''(3) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science, respectively; and

''(4) increased numbers of mathematics and science teachers who participate in content-based professional development activities.

''SEC. 2215. REPORT; REVOCATION OF GRANT.

''(a) REPORT.—Each eligible partnership receiving a grant under this subpart annually shall report to the Secretary regarding the eligible partnership's progress in meeting the performance objectives described in section 2214.

''(b) REVOCATION.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the performance objectives described in section 2214 by the end of the third year of a grant under this subpart, the grant payments shall not be made for the fourth and fifth year of the grant.

''Subpart 2—Eisenhower Clearinghouse for Mathematics and Science Education

''SEC. 2221. CLEARINGHOUSE.

''(a) GRANT OR CONTRACT.—

''(1) IN GENERAL.—The Secretary, in consultation with the Director of the National Science Foundation, may award a grant or contract to an entity to continue the operation of the Eisenhower National Clearinghouse for Mathematics and Science Education (referred to in this section as the 'Clearinghouse'). The Secretary shall award the grant or contract on a competitive basis, on the basis of merit.

''(2) DURATION.—The grant or contract awarded under paragraph (1) shall be awarded for a period of 5 years.

''(b) CLEARINGHOUSE.—

''(1) USE OF FUNDS.—An entity that receives a grant or contract under subsection (a) shall use the funds made available through the grant or contract to—

''(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary schools and secondary schools, including middle schools;

''(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

''(C) disseminate instructional materials, programs, and information to the public and dissemination networks, including information on model engineering, science, technology, and mathematics teacher mentoring programs;

''(D) coordinate activities with entities operating identifiable databases containing mathematics and science instructional materials and programs, including Federal, non-Federal, and, where feasible, international, databases;

''(E) gather qualitative and evaluative data on submissions to the Clearinghouse;

''(F)(i) solicit and gather (in consultation with the Department, national teacher associations, professional associations, and other reviewers and developers of instructional materials and programs) qualitative and evaluative materials and programs, including full text and graphics, for the Clearinghouse;

''(ii) review the evaluation of the materials and programs, and rank the effectiveness of the materials and programs on the basis of the evaluations, except that nothing in this subparagraph shall be construed to permit the Clearinghouse to directly conduct an evaluation of the materials or programs; and

''(iii) distribute to teachers, in an easily accessible manner, the results of the reviews (in a short, standardized, and electronic format that contains electronic links to an electronic version of the qualitative and evaluative materials and programs described in clause (i)), excerpts of the materials and programs, links to Internet-based sites, and information regarding on-line communities of persons who use the materials and programs; and

''(G) develop and establish an Internet-based site offering a search mechanism to assist site visitors in identifying information available through the Clearinghouse on engineering, science, technology, and mathematics education instructional materials and programs, including electronic links to information on classroom demonstrations and experiments, to teachers who have used materials or participated in programs, to vendors, to curricula, and to textbooks.

''(2) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops mathematics or science education instructional materials or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such materials or programs.

''(3) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

''(4) APPLICATION OF COPYRIGHT LAWS.—Nothing in this section shall be construed to allow the use or copying, in any medium, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the Clearinghouse obtains the permission of the owner of the copyright. The Clearinghouse, in carrying out this subsection, shall ensure compliance with title 17, United States Code.

''(c) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant or contract under subsection (a) to operate the Clearinghouse, an entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(2) PEER REVIEW.—The Secretary shall establish a peer review process to review the applications and select the recipient of the award under subsection (a).

''(d) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State educational agencies, local educational agencies, and institutions of higher education. The information disseminated shall include examples of exemplary national programs in mathematics and science instruction and information on necessary technical assistance for the establishment of similar programs.

''(e) REPORT.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the National Academy of Sciences, in conjunction with appropriate related associations and organizations, shall—

''(1) conduct a study on the Clearinghouse to evaluate the effectiveness of the Clearinghouse in conducting the activities described in subsection (b)(1); and

''(2) submit to Congress a report on the results of the study, including any recommendations of the Academy regarding the Clearinghouse.

''Subpart 3—Preparing Tomorrow's Teachers To Use Technology

''SEC. 2231. PURPOSE; PROGRAM AUTHORITY.

''(a) PURPOSE.—It is the purpose of this subpart to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to meet challenging State and local content and student performance standards, 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 a consortium that includes—

''(1) at least 1 institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching;

''(2) at least 1 State educational agency or local educational agency; and

''(3) 1 or more entities consisting of—

''(A) an institution of higher education (other than the institution described in paragraph (1));

''(B) a school or department of education at an institution of higher education;

''(C) a school or college of arts and sciences at an institution of higher education;

''(D) a professional association, foundation, museum, library, for-profit business, public or

private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

''(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

''(1) a description of the proposed project, including how the project would 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 economic and 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 proposed project;

''(3) a description of how each member of the consortium will be included in project activities;

''(4) a description of how the proposed project will be continued after Federal funds are no longer awarded under this subpart; and

''(5) a plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

''(c) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

''(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this subpart may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

''SEC. 2233. USE OF FUNDS.

''(a) REQUIRED USES.—A recipient of an award under this subpart shall use funds made available under this subpart for—

''(1) a project that creates programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to meet challenging State and local content and student performance standards; and

''(2) evaluating the effectiveness of the project.

''(b) PERMISSIBLE USES.—The recipient may use funds made available under this subpart for activities, described in the application submitted by the recipient under this subpart, that carry out the purpose of this subpart, such as—

''(1) developing and implementing high-quality teacher preparation programs that enable educators to—

''(A) learn the full range of resources that can be accessed through the use of technology;

''(B) integrate a variety of technologies into the curricula 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;

''(2) developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators;

''(3) developing performance-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms;

''(4) providing technical assistance to entities carrying out other teacher preparation programs;

''(5) developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and

''(6) subject to section 2232(c)(2), acquiring technology equipment, networking capabilities, infrastructure and software and digital curriculum to carry out the project.

''Subpart 4—General Provisions

''SEC. 2241. CONSULTATION WITH NATIONAL SCIENCE FOUNDATION.

''In carrying out the activities authorized by this part, the Secretary shall consult and coordinate activities with the Director of the National Science Foundation, particularly with respect to the appropriate roles for the Department and the Foundation in the conduct of summer workshops or institutes provided by the eligible partnerships to improve mathematics and science teaching in elementary schools and secondary schools.

''SEC. 2242. AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS.—There are authorized to be appropriated to carry out subpart 1 $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) CLEARINGHOUSE.—There are authorized to be appropriated to carry out subpart 2 $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) TECHNOLOGY PREPARATION.—There are authorized to be appropriated to carry out subpart 3 $150,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART C—STATE AND LOCAL PROGRAMS FOR TECHNOLOGY USE IN CLASSROOMS

''SEC. 2301. PURPOSE; GOAL.

''(a) PURPOSE.—The purpose of this part is to support a comprehensive system to effectively use technology in elementary and secondary schools to improve student academic achievement and performance.

''(b) GOAL.—A goal of this part shall also be to assist every student in crossing the digital divide by ensuring that every child is technologically literate by the time the child finishes the 8th grade, regardless of the child's race, ethnicity, gender, income, geography, or disability. 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 312(2) of the Adult Education Act (20 U.S.C. 1201a(2)).

''(2) ALL STUDENTS.—The term 'all students' means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, and academically talented students.

''(3) CHILD IN POVERTY.—The term 'child in poverty' means a child from a family with a family income below the poverty line (as defined in section 2102).

''(4) INFORMATION INFRASTRUCTURE.—The term 'information infrastructure' means a network of communication systems designed to exchange information among all citizens and residents of the United States.

''(5) INTEROPERABLE; INTEROPERABILITY.—The terms 'interoperable' and 'interoperability' mean the ability to exchange data easily with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users.

''(6) PUBLIC TELECOMMUNICATIONS ENTITY.—The term 'public telecommunications entity' has the meaning given the term in section 397(12) of the Communications Act of 1934 (47 U.S.C. 397(12)).

''(7) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part.

''(8) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' has the meaning given the term in section 213(5) of the Library Services and Technology Act (20 U.S.C. 9122(5)).

''SEC. 2303. ALLOTMENT AND REALLOTMENT.

''(a) LIMITATION.—

''(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.

''(b) ALLOTMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this part for a fiscal year in an amount which bears the same relationship to the amount made available under section 2312 for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

''(2) MINIMUM.—No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than ½ of 1 percent of the amount made available under section 2312 for such year.

''(c) REALLOTMENT OF UNUSED FUNDS.—

''(1) IN GENERAL.—The amount of any State educational agency's allotment under subsection (b) for any fiscal year which the State determines will not be required for such fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (b) for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the State estimates such State needs and will be able to use for such year.

''(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agency's allotment under subsection (b) for such year.

''SEC. 2304. TECHNOLOGY GRANTS.

''(a) GRANTS TO STATES.—

''(1) IN GENERAL.—From amounts made available under section 2303, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 2305. The Secretary shall give priority when awarding grants under this paragraph to State educational agencies whose applications submitted under section 2305 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 grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 2306.

''(B) SUFFICIENCY.—In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

''(C) PRIORITY.—In awarding the grants, each State educational agency shall give priority to the local educational agencies serving the school districts that have the highest number or percentage of children in poverty and have a substantial demonstrated need for assistance in acquiring and integrating technology.

''(D) DISTRIBUTION.—In awarding the grants, each State educational agency shall assure an equitable distribution of assistance under this part among urban and rural areas of the State, according to the demonstrated need of the local educational agencies serving the areas.

''(b) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under subsection (a) shall—

''(1) identify the local educational agencies served by the State educational agency that—

''(A) have the highest number or percentage of children in poverty; and

''(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under 2307; and

''(2) offer such technical assistance to such local educational agencies.

''SEC. 2305. STATE APPLICATION.

''To receive a grant under this part, each State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including a systemic statewide educational technology plan that—

''(1) outlines the long-term strategies for improving student performance, academic achievement, and technology literacy, through the effective use of technology in classrooms throughout the State, including through improving the capacity of teachers to effectively integrate technology into the curricula and instruction;

''(2) outlines how the plan incorporates—

''(A) teacher education and professional development;

''(B) curricular development; and

''(C) technology resources and systems for the purpose of establishing best practices that can be widely implemented by State and local educational agencies;

''(3) outlines the strategies for increasing parental involvement in schools through the effective use of technology;

''(4) outlines long-term strategies for financing technology education in the State to ensure all students, teachers, and classrooms will have access to technology, describes how the State will use funds provided under this part to help ensure such access, and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan;

''(5) contains an assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers);

''(6) provides assurance that financial assistance provided under this part shall supplement, not supplant, State and local funds;

''(7) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to improve student academic achievement and student performance; and

''(8) outlines how the plan incorporates—

''(A) teacher education and professional development;

''(B) curricular development; 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 the extent possible, shall use the funds made available under section 2304(a)(2) for—

''(1) acquiring, adapting, expanding, implementing and maintaining existing and new applications of technology, to support the school reform effort, improve student academic achievement, performance, and technology literacy;

''(2) providing ongoing professional development in the integration of quality educational technologies into school curriculum;

''(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement and student performance;

''(4) acquiring connectivity with wide area networks for purposes of accessing information, 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 student achievement 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 college counseling centers, or in school library media centers, in order to improve student academic achievement and student performance.

''(b) ALLOWABLE USES OF FUNDS.—Each local educational agency may use the funds made available under section 2304(a)(2) for—

''(1) utilizing technology to develop or expand efforts to connect schools and teachers with parents to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments; and

''(2) providing support to help parents understand the technology being applied in their child's education so that parents are able to reinforce their child's learning.

''(c) SPECIAL RULE.—A local educational agency receiving a grant under this part shall use at least 30 percent of allocated funds for professional development.

''SEC. 2307. LOCAL APPLICATION.

''(a) APPLICATION.—Each local educational agency desiring assistance from a State educational agency under section 2304(a)(2) shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall include an updated version of a strategic, long-range plan (3 to 5 years) that includes—

''(1) a description of how the activities to be carried out by the local educational agency under this part will be based on a review of relevant research and an explanation of why the activities are expected to improve student achievement, and technology literacy;

''(2) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency improve student academic achievement, student performance, and teaching;

''(3) a description of how the local educational agency will ensure the effective use of technology to promote parental involvement and increase communication with parents;

''(4) a description of how parents will be informed of the use of technologies so that the parents are able to reinforce at home the instruction their child receives at school;

''(5) a description of the type of technologies to be acquired, including services, software, and digital curricula, including specific provisions for interoperability among components of such technologies;

''(6) 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;

''(7) the projected cost of technologies to be acquired and related expenses needed to implement the plan;

''(8) a description of how the local educational agency will coordinate the technology provided pursuant to this part with other grant funds available for technology from other Federal, State, and local sources;

''(9) a description of a process for the ongoing evaluation of how technologies acquired under this part will be integrated into the school curriculum and will affect technology literacy, student academic achievement, and performance, as related to challenging State content standards and State student performance standards in all subjects;

''(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 the evaluation plan that the local educational agency will carry out pursuant to section 2308(a).

''(b) FORMATION OF CONSORTIA.—A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

''(c) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, the State educational agency may approve such plan, or a component of such plan if the State educational agency determines that such approval would further the purposes of this part.

"SEC. 2308. ACCOUNTABILITY.

''(a) EVALUATION PLAN.—Each local educational agency receiving funds under this part shall establish and include in the agency's application submitted under section 2307 an evaluation plan that requires evaluation of the agency and the schools served by the agency with respect to strong performance objectives and other measures concerning—

''(1) increased professional development 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 a grant under this part shall annually prepare and submit to the State educational agency a report regarding the progress of the local educational agency and the schools served by the local educational agency toward achieving the purposes of this part and meeting the performance objectives and measures described in this section.

''(c) SANCTION.—If after 3 years, the local educational agency does not show measurable improvements, the local educational agency shall not receive funds for the remaining grant years.

''(d) ASSISTANCE.—The State educational agency shall provide technical assistance to the local educational agency to assist them in meeting the performance objectives and measures described in this section.

"SEC. 2309. NATIONAL 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, and policy makers, including teachers, principals and superintendents, and experts in technology and the application of technology to education, shall report to Congress on best practices in implementing technology effectively consistent with the provisions of section 2305(2). The report shall include recommendations for revisions to the National Education Technology Plan for the purpose of establishing best practices that can be widely implemented by State and local educational agencies.

"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 that supports the overall national technology policy. The Secretary shall update such plan periodically when appropriate.

''(b) CONSULTATION.—In preparing the plan described in subsection (a), the Secretary shall consult with other Federal departments or agencies, State and local education practitioners, and policymakers, including teachers, principals, and superintendents, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act or the Technology Challenge Fund program, and providers of technology services and products.

''(c) SUBMISSION; PUBLICATION.—Upon completion of the plan described in subsection (a), the Secretary shall—

''(1) submit such plan to the President and to the appropriate committees of Congress; and

''(2) publish such plan in a form that is readily accessible to the public, including on the Internet.

''(d) CONTENT OF THE PLAN.—The plan described in subsection (a) shall describe the following:

''(1) EFFECTIVE USE.—The plan shall describe the manner in which the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve challenging State academic content standards and challenging State student performance standards, especially through programs administered by the Department.

''(2) JOINT ACTIVITIES.—The plan shall describe joint activities in support of the overall national technology policy to be carried out with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

''(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

''(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible.

''(3) COLLABORATION.—The plan shall describe the manner in which the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector, including the Universal Service Administrative Company, to facilitate the effective use of technology in education.

''(4) PROMOTING ACCESS.—The plan shall describe the manner in which the Secretary will promote—

''(A) higher academic achievement and performance of all students through the integration of technology into the curriculum;

''(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

''(C) the use of technology to assist in the implementation of State systemic reform strategies;

''(D) the application of technological advances to use in improving educational opportunities;

''(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development;

''(F) increased parental involvement in schools through the use of technology; and

''(G) increased opportunities for the professional development of teachers in the use of new technologies.

''(5) EXCHANGE.—The plan shall describe the manner in which the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the conditions and practices that support effective use of technology in improving teaching and student educational opportunities, academic achievement, and technology literacy.

''(6) GOALS.—The plan shall describe the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

"SEC. 2311. NATIONAL TECHNOLOGY INITIATIVES.

''(a) IN GENERAL.—The Secretary shall establish a program to identify and disseminate the practices under which technology is effectively integrated into education to enhance teaching and learning and to improve student achievement, performance and technology literacy.

''(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; and

''(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 part $1,000,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) LIMITATION.—Not more than 5 percent of the funds made available to a recipient under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

''(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. 202. TEACHER MOBILITY.

(a) SHORT TITLE.—This section may be cited as the ''Teacher Mobility Act''.

(b) MOBILITY OF TEACHERS.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), as amended by section 201, is further amended by adding at the end the following:

"PART D—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. The Secretary shall appoint the members from among practitioners and experts with experience relating to teacher mobility, such as teachers, members of teacher certification or licensing bodies, faculty of institutions of higher education that prepare teachers, and State policymakers with such experience.

''(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the panel. Any vacancy in the panel shall not affect the powers of the panel, but shall be filled in the same manner as the original appointment.

''(d) DUTIES.—

''(1) STUDY.—

''(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.

''(e) POWERS.—

''(1) HEARINGS.—The panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers advisable to carry out the objectives of this section.

''(2) INFORMATION FROM FEDERAL AGENCIES.—The panel may secure directly from any Federal department or agency such information as the panel considers necessary to carry out the provisions of this section. Upon request of a majority of the members of the panel, the head of such department or agency shall furnish such information to the panel.

''(3) POSTAL SERVICES.—The panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(f) PERSONNEL.—

''(1) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

''(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(g) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There 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 authorization 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 XVII 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 redesignating paragraphs (3) and (4), as paragraphs (2) and (3), respectively; and

(D) in paragraph (2) (as so redesignated), by inserting before 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'), of 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 local educational agencies with concentrations of children from low-income families or with teacher shortages and States with alternative certification or licensure requirements, as required by section 1702.''.

(c) AUTHORIZATION.—Section 1702 of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9302) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''after their discharge or release, or retirement,'' and insert ''who retire''; and

(ii) by striking ''and'' at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1), the following:

''(2) to assist members of the active reserve forces to obtain certification or licensure as elementary or secondary school teachers or as vocational or technical teachers; and''; and

(2) by adding at the end the following:

''(e) FUNDING.—The administering Secretary shall provide appropriate funds to the Secretary of Defense to enable the Secretary of Defense to manage and operate the Troops-to-Teachers Program.''.

(d) ELIGIBLE MEMBERS.—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, 2006, retired from the active duty or who is a member of the active reserve and who satisfies such other criteria for the selection as the administering Secretary may require, shall be eligible for selection to participate in the Troops-to-Teachers Program.''; and

(2) in subsection (d)—

(A) by striking ''(1) The administering Secretary'' and inserting ''Secretary of Defense''; and

(B) by striking paragraph (2); and

(3) by adding at the end the following:

''(e) PLACEMENT ASSISTANCE AND REFERRAL SERVICES.—The administering Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services to members of the Armed Forces who separated from active duty under honorable circumstances. Such members shall meet education qualification requirements under subsection (b). Such members shall not be eligible for financial assistance under subsections (a) and (b) of section 1705.''.

(e) SELECTION OF PARTICIPANTS.—Section 1704 of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9304) is amended—

(1) in subsection (a), by striking ''on a timely basis'';

(2) by striking subsection (b);

(3) in subsection (e)—

(A) in the matter preceding paragraph (1), by inserting ''and receives financial assistance'' after ''Program''; and

(B) in paragraph (2), by striking ''four school'' and all that follows and inserting ''three school years with a local educational agency, except that the Secretary of Defense may waive the 3 year commitment if the Secretary determines such waiver to be appropriate.'';

(4) in subsection (f), by striking ''subsection (e)'' and inserting ''subsection (d)''; and

(5) by redesignating subsections (c) through (f) as subsection (b) through (e), respectively.

(f) 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);

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) in paragraph (3)—

(i) by striking subparagraphs (A) through (D) and inserting the following:

''(A) The school is in a low-income school district as defined by the administering Secretary.''; and

(ii) by redesignating subparagraphs (E) and (F), as subparagraphs (B) and (C), respectively; and

(C) by redesignating paragraph (3) as paragraph (2); and

(3) in subsection (d)—

(A) by striking ''four years'' each place that such appears and inserting ''three years''; and

(B) in paragraph (2), by striking ''1704(e)'' and inserting ''1704(d)''.

(g) PARTICIPATION BY STATES.—Section 1706(b) of the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9306(b)) is amended—

(1) by striking ''(1) Subject to paragraph (2), the'' and inserting ''The''; and

(2) by striking paragraph (2).

(h) SUPPORT OF TEACHER CERTIFICATION PROGRAMS.—The Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.) is amended by striking 1707 through 1709 and inserting the following:

''SEC. 1707. SUPPORT OF INNOVATIVE, PRE-RETIREMENT TEACHER CERTIFICATION PROGRAMS.

''(a) IN GENERAL.—The administering Secretary may enter into a memorandum of agreements with institutions of higher education to develop, implement, and demonstrate teacher certification programs for pre-retirement military personnel for the purpose of preparing such personnel to transition to teaching as a second career. Such program shall—

''(1) provide for the recognition of military experience and training as related to licensure or certification requirements;

''(2) provide courses of instruction that may be provided at military installations;

''(3) incorporate alternative approaches to achieve teacher certification such as innovative methods to gaining field based teaching experiences, and assessments of background and experience as related to skills, knowledge and abilities required of elementary or secondary school teachers; and

''(4) provide for the delivery of courses through distance education methods.

''(b) APPLICATIONS PROCEDURES.—

''(1) IN GENERAL.—An institution of higher education, or a consortia of such institutions, that desires to enter into an 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) PREFERENCE.—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.''.

SEC. 204. PROFESSIONAL DEVELOPMENT.

Section 3141(b)(2)(A) (20 U.S.C. 6861(b)(2)(A)) is amended—

(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 or 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 202, 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 educational 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 a 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 minorities, who are members of recently immigrated or migrant families, Native Americans or the physically disabled.

''(6) The Close Up Foundation has thirty years of experience in providing economically disadvantaged young people and teachers with a unique and highly educational experience with how our federal system of government functions through its programs that bring young people and teachers to Washington, D.C. for a first-hand view of our government in action.

''(7) It is a worthwhile goal to ensure that economically disadvantaged young people and teachers have the opportunity to participate in Close Up's highly effective civic education program. Therefore, it is fitting and appropriate to provide fellowships to students of limited economic means and the teachers who work with such students so that the students and teachers may participate in the programs supported by the Close Up Foundation. It is equally fitting and appropriate to support the Close Up Foundation's 'Great American Cities' program that focuses on character and leadership development among 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 of increasing understanding of the Federal Government among economically disadvantaged middle and secondary school students.

''(b) USE OF FUNDS.—Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be know as the Close Up Fellowships.

''SEC. 2512. APPLICATIONS.

''(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, 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 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 students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students; and

''(3) 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 of teaching skills enhancement for middle and secondary school teachers.

''(b) USE OF FUNDS.—Grants under this subpart shall be used only to provide financial assistance to teachers who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be know as the Close Up Teacher Fellowships.

''SEC. 2522. APPLICATIONS.

''(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, 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 only to teachers who have worked with at least one student from such teacher's school who participates in the program described in section 2521(a);

''(2) that no teacher in each school participating in the programs provided for in section (a) may receive more than one fellowship in any fiscal year; and

''(3) 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 of increasing understanding of the Federal Government among economically disadvantaged secondary school students who are recent immigrants.

''(b) DEFINITION.—For purposes 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 program.

''(c) USE OF FUNDS.—Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged recent immigrant students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be know as the Close Up Fellowships for New Americans.

''SEC. 2532. APPLICATIONS.

''(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, 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 recent immigrant 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;

''(3) that activities permitted by subsection (a) are fully described; and

''(4) the proper disbursement of the funds received under this subpart.

''Subpart 4—General Provisions

''SEC. 2541. ADMINISTRATIVE PROVISIONS.

''(a) ACCOUNTABILITY.—In consultation with the Secretary, the Close Up Foundation will devise and implement procedures to measure the efficacy of the programs authorized in subparts 1, 2, and 3 in attaining objectives that include: providing young people with an increased understanding of the Federal Government; heightening a sense of civic responsibility among young people; and enhancing the skills of educators in teaching young people about civic virtue, citizenship competencies and the Federal Government.

''(b) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments.

''(c) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

''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.

''(b) SPECIAL RULE.—Of the funds appropriated pursuant to subsection (a), not more than 30 percent may be used for teachers associated with students participating in the programs described in sections 2511, 2521 and 2531.

''PART F—NATIONAL STUDENT/PARENT MOCK ELECTION

''SEC. 2601. NATIONAL STUDENT/PARENT MOCK ELECTION.

''(a) IN GENERAL.—The Secretary is authorized to award grants 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

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, DC and American schools overseas; and

''(2) consist of—

''(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 team competitions, 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 Elections shall present awards to outstanding student and parent mock election projects.

''SEC. 2602. 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. 206. 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 technology skills 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 agency responsible for administering programs under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

''(B) include eligible local educational agencies (as defined in paragraph (2)) under the plan.

''(2) 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 School Locale Code of 7 or 8, as determined by the Secretary.

''(c) AMOUNT OF GRANT.—Of the amount made available under section 2312(a) to carry out this part for a fiscal year and reduced by amounts used under section 2704, the Secretary shall provide to each State under a grant under subsection (a) an amount the bears that same ratio to such appropriated amount as the number of students in average daily attendance at the schools served by eligible local educational agencies in the State bears to the number of all such students at the schools served by eligible local educational agencies in all States in such fiscal year.

''(d) 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 for use as provided for in paragraph (2); and

''(B) not to exceed 15 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 USE OF FUNDS.—Amounts received by an eligible local educational agency under paragraph (1)(A) 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 for 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;

''(E) the purchase of equipment needed to implement a technology curriculum;

''(F) the provision of technology courses through distance learning;

''(G) the development of, or entering into a, consortium with other local educational agencies, institutions of higher education, or for-profit businesses, nonprofit organizations, community-based organizations or other entities with the capacity to contribute to technology training for the purposes of subparagraphs (A) through (F); or

''(H) other activities consistent with the purposes of this part.

''(3) AMOUNT OF ASSISTANCE.—In providing assistance to eligible local educational agencies under this section, a State shall ensure that the amount 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 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.

''SEC. 2704. TECHNICAL ASSISTANCE.

''From amounts made available for a fiscal year under section 2312(a) to carry out this part, the Secretary may use not to exceed 5 percent of such amounts to—

''(1) establish a position within the Office of Educational Technology of the Department of Education for a specialist in rural schools;

''(2) identify and disseminate throughout the United States information on best practices concerning technology curricula; and

''(3) conduct seminars in rural areas on technology education.

''PART H—EARLY CHILDHOOD EDUCATOR PROFESSIONAL DEVELOPMENT

''SEC. 2801. PURPOSE.

''In support of the national effort to attain the first of America's Education Goals, the purpose of this part is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent them from encountering difficulties once they enter school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

''SEC. 2802. PROGRAM AUTHORIZED.

''(a) GRANTS TO PARTNERSHIPS.—The Secretary shall carry out the purpose of this part by awarding grants, on a competitive basis, to partnerships consisting of—

''(1)(A) one or more institutions of higher education that provide professional development for early childhood educators who work with children from low-income families in high-need communities; or

''(B) another public or private entity that provides such professional development;

''(2) one or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990), Head Start agencies, or private organizations; and

''(3) to the extent feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs in identifying and preventing behavior problems or working with children identified or suspected to be victims of abuse.

''(b) 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 demographic and socioeconomic information as the Secretary may request;

''(2) information on the quality of the early childhood educator professional development program 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 development needs of the early childhood educators to be served by the partnership and in the broader community, and a description of how the proposed project will address those needs;

''(4) a description of how the proposed project will be carried out, including—

''(A) how individuals will be selected to participate;

''(B) the types of research-based professional development activities that will be carried out;

''(C) how research on effective professional development and on adult learning will be used to design and deliver project activities;

''(D) how the project will coordinate with and build on, and will not supplant or duplicate, early childhood education professional development activities that exist in the community;

''(E) how the project will train early childhood educators to provide services that are based on developmentally appropriate practices and the best available research on child social, emotional, physical and cognitive development and on early childhood pedagogy;

''(F) how the program will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English proficiency, disabilities, or other special needs; and

''(G) how the project will train early childhood educators in identifying and preventing behavioral problems or working with children identified as or suspected to be victims of abuse;

''(5) a description of—

''(A) the specific objectives that the partnership will seek to attain through the project, and how the partnership will measure progress toward attainment of those objectives; and

''(B) how the objectives and the measurement activities align with the performance indicators established by the Secretary under section 2806(a);

''(6) a description of the partnership's plan for continuing the activities carried out under the project, so that the activities continue once Federal funding ceases;

''(7) an assurance that, where applicable, the project will provide appropriate professional development to volunteers working directly with young children, as well as to paid staff; and

''(8) an assurance that, in developing its application and in carrying out its project, the partnership has consulted with, and will consult with, relevant agencies, early childhood educator organizations, and early childhood providers that are not members of the partnership.

''SEC. 2804. SELECTION OF GRANTEES.

''(a) CRITERIA.—The Secretary shall select partnerships to receive funding on the basis of the community's need for assistance and the quality of the applications.

''(b) GEOGRAPHIC DISTRIBUTION.—In selecting partnerships, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.

''SEC. 2805. USES OF FUNDS.

''(a) IN GENERAL.—Each partnership receiving a grant under this part shall use the grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families.

''(b) ALLOWABLE ACTIVITIES.—Such activities may include—

''(1) professional development for individuals working as early childhood educators, particularly to familiarize those individuals with the application of recent research on child, language, and literacy development and on early childhood pedagogy;

''(2) professional development for early childhood educators in working with parents, based on the best current research on child social, emotional, physical and cognitive development and parent involvement, so that the educators can prepare their children to succeed in school;

''(3) professional development for early childhood educators to work with children who have limited English proficiency, disabilities, and other special needs;

''(4) professional development to train early childhood educators in identifying and preventing behavioral problems in children or working with children identified or suspected to be victims of abuse;

''(5) activities that assist and support early childhood educators during their first three years in the field;

''(6) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;

''(7) professional development activities related to the selection and use of screening and diagnostic assessments to improve teaching and learning; and

''(8) data collection, evaluation, and reporting needed to meet the requirements of this part relating to accountability.

''SEC. 2806. ACCOUNTABILITY.

''(a) PERFORMANCE INDICATORS.—Simultaneously 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 professional development provided;

''(2) the impact of that professional development 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 receiving a grant under this part shall report annually to the Secretary on the partnership's progress against the performance indicators.

''(2) TERMINATION.—The Secretary may terminate a grant under this part at any time if the Secretary determines that the partnership is not making satisfactory progress against the indicators.

''SEC. 2807. COST-SHARING.

''(a) IN GENERAL.—Each partnership shall provide, 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 partnership 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.—

''(A) IN GENERAL.—The term 'high-need community' means—

''(i) a municipality, or a portion of a municipality, in which at least 50 percent of the children are from low-income families; or

''(ii) a municipality that is one of the 10 percent of municipalities within the State having the greatest numbers of such children.

''(B) DETERMINATION.—In determining which communities are described in subparagraph (A), the Secretary shall use such data as the Secretary determines are most accurate and appropriate.

''(2) LOW-INCOME FAMILY.—The term 'low-income family' means a family with an income 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 for the most recent fiscal year for which satisfactory data are available.

''(3) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means a person providing or employed by a provider of non-residential 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 requirements for the provision of child care services to children at any age from birth through kindergarten.

''SEC. 2809. FEDERAL COORDINATION.

''The Secretary and the Secretary of Health and Human Services shall coordinate activities under this part and other early childhood programs administered by the two Secretaries.

''SEC. 2810. AUTHORIZATION OF APPROPRIATIONS.

''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. 207. TEACHERS AND PRINCIPALS.

Part A of title II (as amended in section 201) is further amended—

(1) by striking the title heading and all that follows through the part heading for part A and inserting the following:

''TITLE II—TEACHERS AND PRINCIPALS

''PART A—TEACHER AND PRINCIPAL QUALITY'';

(2) in section 2101(1)—

(A) by striking ''teacher quality'' and inserting ''teacher and principal quality''; and

(B) by inserting before the semicolon ''and highly qualified principals and assistant principals in schools'';

(3) in section 2102—

(A) in paragraph (4)—

(i) in subparagraph (B)(ii), by striking ''and'';

(ii) in subparagraph (C), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) with respect to an elementary school or secondary school principal, a principal—

''(i)(I) with at least a master's degree in educational administration and at least 3 years of classroom teaching experience; or

''(II) who has completed a rigorous alternative certification program that includes instructional leadership courses, an internship under the guidance of an accomplished principal, and classroom teaching experience; and

''(ii) who is certified or licensed as a principal by the State involved; and

''(iii) who can demonstrate a high level of competence as an instructional leader with knowledge of theories of learning, curricula design, supervision and evaluation of teaching and learning, assessment design and application, child and adolescent development, and public reporting and accountability.''; and

(B) in paragraph (9)(B), by striking ''teachers'' each place it appears and inserting ''teachers, principals, and assistant principals,'';

(4) in section 2112(b)(4), by striking ''teaching force'' and inserting ''teachers, principals, and assistant principals'';

(5) in section 2113(b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''teacher'' and inserting ''teacher and principal'';

(ii) in subparagraph (A)—

(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 and principals'';

(ii) by striking ''degree'' 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 inserting ''teacher and principal'';

(6) 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 teachers,'' after ''skills,'';

(7) in section 2123(b)—

(A) in paragraph (2), by inserting ''and principal'' before ''mentoring'';

(B) in paragraph (3), striking the period and inserting '', nonprofit organizations, local educational agencies, or consortia of appropriate educational entities.''; and

(C) in paragraph (4)—

(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'';

(8) in section 2133(a)(1)—

(A) by striking '', paraprofessionals, and, if appropriate, principals'' and inserting ''and paraprofessionals''; and

(B) by striking the semicolon and inserting the following: ''and that 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;'';

(9) in section 2134—

(A) in paragraph (1), by striking ''teachers'' and inserting ''teachers and principals''; and

(B) in paragraph (2)—

(i) by striking ''teachers'' and inserting ''teachers and principals''; and

(ii) by inserting ''a principal organization,'' after ''teacher organization,''; and

(10) in section 2142(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 FLUENCY

SEC. 301. BILINGUAL EDUCATION.

Title III (20 U.S.C. 6511 et seq.) is amended to read as follows:

''TITLE III—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

''PART A—BILINGUAL EDUCATION

''SEC. 3001. SHORT TITLE.

''This part may be cited as the 'Bilingual Education Act'.

''SEC. 3002. PURPOSE.

''The purpose of this part is to help ensure that limited English proficient students master English and meet the same rigorous standards for academic performance as all children and youth are expected to meet, including meeting challenging State content standards and challenging State student performance standards in academic subjects by—

''(1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient students;

''(2) developing bilingual skills and multicultural understanding;

''(3) developing the English of limited English proficient children and youth and, to the extent possible, the native language skills of such children and youth;

''(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

''(5) developing data collection and dissemination, research, materials, and technical assistance that are focused on school improvement for limited English proficient students; and

''(6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient students.

''SEC. 3003. AUTHORIZATION OF APPROPRIATIONS.

''(a) BILINGUAL EDUCATION.—There are authorized to be appropriated to carry out this part $700,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) STATE AND LOCAL GRANTS.—Notwithstanding subsection (a), for any fiscal year for which the amount of funds appropriated under subsection (a) is not less than $700,000,000, the funds shall be used to carry out part D.

''SEC. 3004. NATIVE AMERICAN CHILDREN IN SCHOOL.

''(a) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American (including Alaska Native) children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency.

''(2) DEFINITIONS.—In this section:

''(A) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(B) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

''(i) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

''(ii) any nonprofit institution or organization that is—

''(I) chartered by the governing body of an Indian tribe to operate any school operated predominately for Indian children and youth or otherwise to oversee the delivery of educational services to members of that tribe; and

''(II) approved by the Secretary for the purpose of this section.

''(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the program proposed in the application.

''SEC. 3005. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED STATES.

''For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' includes public institutions or agencies whose mission is the preservation and maintenance of native languages.

''Subpart 1—Bilingual Education Capacity and Demonstration Grants

''SEC. 3101. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.

''The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 3102 and 3103, to—

''(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

''(2) help such children and youth—

''(A) develop proficiency in English, and to the extent possible, their native language; and

''(B) meet the same challenging State content standards and challenging State student performance standards as all children and youth are expected to meet under section 1111(b).

''SEC. 3102. PROGRAM ENHANCEMENT PROJECTS.

''(a) PURPOSE.—The purpose of this section is to—

''(1) provide grants to eligible entities to provide innovative, locally designed, high quality instruction to children and youth of limited English proficiency;

''(2) help children and youth develop proficiency in the English language by expanding or strengthening instructional programs; and

''(3) help children and youth attain the standards established under section 1111(b).

''(b) PROGRAM AUTHORIZED.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3104 to enable such entities to carry out activities described in paragraph (2).

''(B) PERIOD.—Each grant awarded under this section shall be awarded for a period of 3 years.

''(2) AUTHORIZED ACTIVITIES.—

''(A) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

''(i) developing, implementing, expanding, or enhancing comprehensive preschool, elementary, or secondary education programs for limited English proficient children and youth, that are—

''(I) aligned with State and local content and student performance standards, and local school reform efforts; and

''(II) coordinated with related services for children and youth;

''(ii) providing high quality professional development to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of limited English proficient students; and

''(iii) annually assessing the English proficiency of all limited English proficient students served by activities carried out under this section.

''(B) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

''(i) implementing programs to upgrade the reading and other academic skills of limited English proficient students;

''(ii) developing accountability systems to monitor the academic progress of limited English proficient and formerly limited English proficient students;

''(iii) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

''(iv) improving the instructional programs for limited English proficient students by identifying, acquiring, and applying effective curricula, instructional materials (including materials provided through technology), and assessments that are all aligned with State and local standards;

''(v) providing intensified instruction, including tutorials and academic or career counseling, for children and youth who are limited English proficient;

''(vi) adapting best practice models for meeting the needs of limited English proficient students;

''(vii) assisting limited English proficient students with disabilities;

''(viii) implementing applied learning activities such as service learning to enhance and support comprehensive elementary and secondary bilingual education programs; and

''(ix) carrying out such other activities related to the purpose of this part as the Secretary may approve.

''(c) PRIORITY.—In awarding grants under this section, the Secretary may give priority to an entity that—

''(1) serves a school district—

''(A) that has a total district enrollment that is less than 10,000 students; or

''(B) with a large percentage or number of limited English proficient students; and

''(2) has limited or no experience in serving limited English proficient students.

''(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) 1 or more local educational agencies;

''(2) 1 or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency; or

''(3) a community-based organization or an institution of higher education that has an application approved by the local educational agency to participate in programs carried out under this subpart by enhancing early childhood education or family education programs or conducting instructional programs that supplement the educational services provided by a local educational agency.

''SEC. 3103. COMPREHENSIVE SCHOOL AND SYSTEMWIDE IMPROVEMENT GRANTS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to provide financial assistance to schools and local educational agencies for implementing bilingual education programs, in coordination with programs carried out under this title, for children and youth of limited English proficiency;

''(2) to assist limited English proficient students to meet the standards established under section 1111(b); and

''(3) to improve, reform, and upgrade relevant instructional programs and operations, carried out by schools and local educational agencies, that serve significant percentages of students of limited English proficiency or significant numbers of such students.

''(b) AUTHORIZED ACTIVITIES.—

''(1) AUTHORITY.—The Secretary may award grants to eligible entities having applications approved under section 3104 to enable such entities to carry out activities described in paragraphs (2) and (3).

''(2) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

''(A) improving instructional programs for limited English proficient students by acquiring and upgrading curricula and related instructional materials;

''(B) aligning the activities carried out under this section with State and local school reform efforts;

''(C) providing training, aligned with State and local standards, to school personnel and participating community-based organization personnel to improve the instruction and assessment of limited English proficient students;

''(D) developing and implementing plans, coordinated with plans for programs carried out under title II of the Higher Education Act of 1965 (where applicable), and title II of this Act (where applicable), to recruit teachers trained to serve limited English proficient students;

''(E) implementing culturally and linguistically appropriate family education programs, or parent outreach and training activities, that are designed to assist parents to become active participants in the education of their children;

''(F) coordinating the activities carried out under this section with other programs, such as programs carried out under this title;

''(G) providing services to meet the full range of the educational needs of limited English proficient students;

''(H) annually assessing the English proficiency of all limited English proficient students served by the activities carried out under this section; and

''(I) developing or improving accountability systems to monitor the academic progress of limited English proficient students.

''(3) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

''(A) implementing programs to upgrade reading and other academic skills of limited English proficient students;

''(B) developing and using educational technology to improve learning, assessments, and accountability to meet the needs of limited English proficient students;

''(C) implementing scientifically based research programs to meet the needs of limited English proficient students;

''(D) providing tutorials and academic or career counseling for limited English proficient children and youth;

''(E) developing and implementing State and local content and student performance standards for learning English as a second language, as well as for learning other languages;

''(F) developing and implementing programs for limited English proficient students to meet the needs of changing populations of such students;

''(G) implementing policies to ensure that limited English proficient students have access to other education programs (other than programs designed to address limited English proficiency), such as gifted and talented, vocational education, and special education programs;

''(H) assisting limited English proficient students with disabilities;

''(I) developing and implementing programs to help all students become proficient in more than 1 language; and

''(J) carrying out such other activities related to the purpose of this part as the Secretary may approve.

''(4) SPECIAL RULE.—A recipient of a grant under this section, before carrying out activities under this section, shall plan, train personnel, develop curricula, and acquire or develop materials, but shall not use funds made available under this section for planning purposes for more than 90 days. The recipient shall commence carrying out activities under this section not later than 90 days after the date of receipt of the grant.

''(c) AVAILABILITY OF APPROPRIATIONS.—

''(1) RESERVATION OF FUNDS FOR CONTINUED PAYMENTS.—

''(A) COVERED GRANT.—In this paragraph, the term 'covered grant' means a grant—

''(i) that was awarded under section 7114 or 7115 (as such sections were in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(ii) for which the grant period has not ended.

''(B) RESERVATION.—For any fiscal year that is part of the grant period of a covered grant, the Secretary shall reserve funds for the payments described in subparagraph (C) from the amount appropriated for the fiscal year under section 3003 and made available for carrying out this section.

''(C) PAYMENTS.—The Secretary shall continue to make grant payments to each entity that received a covered grant, for the duration of the grant period of the grant, to carry out activities in accordance with the appropriate section described in subparagraph (A)(i).

''(2) AVAILABILITY.—Of the amount appropriated for a fiscal year under section 3003 that is made available for carrying out this section, and that remains after the Secretary reserves funds for payments under paragraph (1)—

''(A) not less than ⅓ of the remainder shall be used to award grants for activities carried out within an entire school district; and

''(B) not less than ⅔ of the remainder shall be used to award grants for activities carried out within individual schools.

''(d) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means—

''(1) 1 or more local educational agencies; or

''(2) 1 or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

''SEC. 3104. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SECRETARY.—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

''(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity under this section to the State educational agency.

''(b) STATE REVIEW AND COMMENTS.—

''(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and submit the written comments of the agency regarding the application to the Secretary.

''(2) COMMENTS.—

''(A) SUBMISSION OF COMMENTS.—Regarding applications submitted under this subpart, the State educational agency shall—

''(i) submit to the Secretary written comments regarding all such applications; and

''(ii) submit to each eligible entity the comments that pertain to such entity.

''(B) SUBJECT.—For purposes of this subpart, such comments shall address—

''(i) how the activities to be carried out under the grant will further the academic achievement and English proficiency of limited English proficient students served under the grant; and

''(ii) how the grant application is consistent with the State plan required under section 1111.

''(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

''(d) COMMENT CONSIDERATION.—In making grants under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

''(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement specified in subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 3124, particularly such agency's ability to carry out data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

''(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that—

''(1) the applicant has the qualified personnel required to develop, administer, and implement the program proposed in the application; and

''(2) the leadership personnel of each school participating in the program have been involved

in the development and planning of the program in the school.

''(g) CONTENTS.—

''(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

''(A) A description of the need for the proposed program, including—

''(i) data on the number of limited English proficient students in the school or school district to be served;

''(ii) information on the characteristics of such students, including—

''(I) the native languages of the students;

''(II) the proficiency of the students in English and their native language;

''(III) achievement data (current as of the date of submission of the application) for the limited English proficient students in—

''(aa) reading or language arts (in English and in the native language, if applicable); and

''(bb) mathematics;

''(IV) a comparison of that data for the students with that data for the English proficient peers of the students; and

''(V) the previous schooling experiences of the students;

''(iii) the professional development needs of the instructional personnel who will provide services for the limited English proficient students under the proposed program; and

''(iv) how the services provided through the grant will supplement the basic services provided to limited English proficient students.

''(B) A description of the program to be implemented and how such program's design—

''(i) relates to the linguistic and academic needs of the children and youth of limited English proficiency to be served;

''(ii) will ensure that the services provided through the program will supplement the basic services the applicant provides to limited English proficient students;

''(iii) will ensure that the program is coordinated with other programs under this Act and other Acts;

''(iv) involves the parents of the children and youth of limited English proficiency to be served;

''(v) ensures accountability in achieving high academic standards; and

''(vi) promotes coordination of services for the children and youth of limited English proficiency to be served and their families.

''(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local educational agencies or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

''(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

''(E) An assurance that the applicant will employ teachers in the proposed program who, individually or in combination, are proficient in—

''(i) English, with respect to written, as well as oral, communication skills; and

''(ii) the native language of the majority of the students that the teachers teach, if instruction in the program is in the native language as well as English.

''(F) A budget for the grant funds.

''(2) ADDITIONAL INFORMATION.—Each application for a grant under section 3103 shall—

''(A) describe—

''(i) current services (as of the date of submission of the application) the applicant provides to children and youth of limited English proficiency;

''(ii) what services children and youth of limited English proficiency will receive under the grant that such children or youth will not otherwise receive;

''(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited English proficiency;

''(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

''(v) the current family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

''(B) provide assurances that—

''(i) the program funded with the grant will be integrated with the overall educational program of the students served through the proposed program; and

''(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such program.

''(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

''(1) the program proposed in the application will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

''(2) in designing the program, the eligible entity has, after consultation with appropriate private school officials—

''(A) taken into account the needs of children in nonprofit private elementary schools and secondary schools; and

''(B) in a manner consistent with the number of such children enrolled in such schools in the area to be served, whose educational needs are of the type and whose language, and grade levels are of a similar type to the needs, language, and grade levels that the program is intended to address, provided for the participation of such children on a basis comparable to the basis on which public school children participate;

''(3)(A) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students; and

''(B) limited English proficient students with disabilities will be identified and served through the program in accordance with the requirements of the Individuals with Disabilities Education Act;

''(4) Federal funds made available for the program will be used to supplement the State and local funds that, in the absence of such Federal funds, would be expended for special programs for children of limited English proficient individuals, and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds made available under this subpart—

''(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

''(B) to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided to such children;

''(5)(A) the assistance provided through the grant will contribute toward building the capacity of the eligible entity to provide a program on a regular basis, similar to the proposed program, that will be of sufficient size, scope, and quality to promise significant improvement in the education of limited English proficient students; and

''(B) the eligible entity will have the resources and commitment to continue the program of sufficient size, scope, and quality when assistance under this subpart is reduced or no longer available; and

''(6) the eligible entity will use State and national dissemination sources for program design and dissemination of results and products.

''(i) PRIORITIES AND SPECIAL RULES.—

''(1) PRIORITY.—In approving applications for grants for programs under this subpart, the Secretary shall give priority to an applicant who—

''(A) experiences a dramatic increase in the number or percentage of limited English proficient students enrolled in the applicant's programs and has limited or no experience in serving limited English proficient students;

''(B) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

''(C) demonstrates that the applicant has a proven record of success in helping limited English proficient children and youth learn English and meet high academic standards;

''(D) proposes programs that provide for the development of bilingual proficiency both in English and another language for all participating students; or

''(E) serves a school district with a large number or percentage of limited English proficient students.

''(2) CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local educational agency and State educational agency, or businesses.

''(3) DUE CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give due consideration to an application that—

''(A) provides for training for personnel participating in or preparing to participate in the program that will assist such personnel in meeting State and local certification requirements; and

''(B) to the extent possible, describes how credit at an institution of higher education will be awarded for such training.

''SEC. 3105. CAPACITY BUILDING.

''Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited English proficiency after Federal assistance is reduced or eliminated.

''SEC. 3106. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

''Programs authorized under this subpart that serve Native American children (including Native American Pacific Islander children), and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this subpart, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited Spanish proficiency, except that 1 outcome of such programs serving Native American children shall be increased English proficiency among such children.

''SEC. 3107. EVALUATIONS.

''(a) EVALUATION.—Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report concerning the evaluation, in the form prescribed by the Secretary.

''(b) USE OF EVALUATION.—Such evaluation shall be used by the grant recipient—

''(1) for program improvement;

''(2) to further define the program's goals and objectives; and

''(3) to determine program effectiveness.

''(c) EVALUATION REPORT COMPONENTS.—In preparing the evaluation reports, the recipient shall—

''(1) use the data provided in the application submitted by the recipient under section 3104 as baseline data against which to report academic achievement and gains in English proficiency for students in the program;

''(2) disaggregate the results of the evaluation by gender, language groups, and whether the students have disabilities;

''(3) include data on the progress of the recipient in achieving the objectives of the program, including data demonstrating the extent to which students served by the program are meeting the State's student performance standards, and including data comparing limited English proficient students with English proficient students with regard to school retention and academic achievement concerning—

''(A) reading and language arts;

''(B) English proficiency;

''(C) mathematics; and

''(D) the native language of the students if the program develops native language proficiency;

''(4) include information on the extent that professional development activities carried out through the program have resulted in improved classroom practices and improved student performance;

''(5) include a description of how the activities carried out through the program are coordinated and integrated with the other Federal, State, or local programs serving limited English proficient children and youth; and

''(6) include such other information as the Secretary may require.

''SEC. 3108. CONSTRUCTION.

''Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''Subpart 2—Research, Evaluation, and Dissemination

''SEC. 3121. AUTHORITY.

''(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

''(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded to institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies.

''(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

''SEC. 3122. RESEARCH.

''(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

''(b) REQUIREMENTS.—Such research activities—

''(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

''(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by a teacher or other staff member who does not know the native language of a limited English proficient child or youth in the teacher's or staff member's classroom;

''(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of 'limited English proficient student' for purposes of national data collection; and

''(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

''(c) FIELD-INITIATED RESEARCH.—

''(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by recipients of grants under subpart 1 or this subpart who have received such grants within the previous 5 years. Such research may provide for longitudinal studies of students or teachers into bilingual education, monitoring the education of such students from entry into bilingual education through secondary school completion.

''(2) APPLICATIONS.—An applicant for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as the applicant submits another application under subpart 1 or this subpart. The Secretary shall complete a review of such applications on a timely basis to allow the activities carried out under research and program grants to be coordinated when recipients are awarded 2 or more of such grants.

''(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners, to identify areas of study and activities to be funded under this section.

''(e) DATA COLLECTION.—The Secretary shall provide for the collection of data on limited English proficient students as part of the data systems operated by the Department.

''SEC. 3123. ACADEMIC EXCELLENCE AWARDS.

''(a) AUTHORITY.—The Secretary may make grants to State educational agencies to assist the agencies in recognizing local educational agencies and other public and nonprofit entities whose programs have—

''(1) demonstrated significant progress in assisting limited English proficient students to learn English according to age appropriate and developmentally appropriate standards; and

''(2) demonstrated significant progress in assisting limited English proficient children and youth to meet, according to age appropriate and developmentally appropriate standards, the same challenging State content standards as all children and youth are expected to meet.

''(b) APPLICATIONS.—A State educational agency desiring a grant under this section shall include an application for such grant in the application submitted by the agency under section 3124(e).

''SEC. 3124. STATE GRANT PROGRAM.

''(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

''(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies and entities within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $200,000.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—A State educational agency shall use funds awarded under this section to—

''(A) assist local educational agencies in the State with activities that—

''(i) consist of program design, capacity building, assessment of student performance, program evaluation, and development of data collection and accountability systems for limited English proficient students; and

''(ii) are aligned with State reform efforts; and

''(B) collect data on the State's limited English proficient populations and document the services available to all such populations.

''(2) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

''(3) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

''(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this subpart and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this subpart.

''(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

''(f) SUPPLEMENT NOT SUPPLANT.—Federal funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the State funds that, in the absence of such Federal funds, would be made available for the purposes described in this section, and in no case to supplant such State funds.

''(g) REPORT TO THE SECRETARY.—A State educational agency receiving an award under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of the funds made available through the award.

''SEC. 3125. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

''(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

''(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

''(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

''(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

''(3) develop a database management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs;

''(4) develop, maintain, and disseminate a listing, by geographical area, of education professionals, parents, teachers, administrators, community members, and others, who are native speakers of languages other than English, for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs; and

''(5) publish, on an annual basis, a list of grant recipients under this subpart.

''SEC. 3126. INSTRUCTIONAL MATERIALS DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants for the development, publication, and dissemination of high-quality instructional materials—

''(1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instructional materials are not readily available; and

''(2) in other low-incidence languages in the United States for which instructional materials are not readily available.

''(b) PRIORITY.—In making the grants, the Secretary shall give priority to applicants for the grants who propose—

''(1) to develop instructional materials in languages indigenous to the United States or the outlying areas; and

''(2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 and this subpart, that are consistent with voluntary national content standards and challenging State content standards.

''Subpart 3—Professional Development

''SEC. 3131. PURPOSE.

''The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

''SEC. 3132. TRAINING FOR ALL TEACHERS PROGRAM.

''(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies, and resources specific to limited English proficient students into preservice and inservice professional development programs for individuals who are teachers, pupil services personnel, administrators, or other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

''(b) AUTHORIZATION.—

''(1) AUTHORITY.—The Secretary may award grants under this section to—

''(A) local educational agencies; or

''(B) 1 or more local educational agencies in a consortium with 1 or more State educational agencies, institutions of higher education, or nonprofit organizations.

''(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years.

''(c) AUTHORIZED ACTIVITIES.—

''(1) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Grants awarded under this section shall be used to conduct high-quality, long-term professional development activities relating to meeting the needs of limited English proficient students, which may include—

''(A) developing and implementing induction programs for new teachers, including programs that provide mentoring and coaching by trained teachers, and team teaching with experienced teachers;

''(B) implementing school-based collaborative efforts among teachers to improve instruction in core academic areas, including reading, for students of limited English proficiency;

''(C) coordinating activities with entities carrying out other programs, such as other programs carried out under this title, title II, and the Head Start Act;

''(D) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

''(E) establishing and maintaining local professional networks;

''(F) developing curricular materials and assessments for teachers that are aligned with State and local standards and the needs of the limited English proficient students to be served; and

''(G) carrying out such other activities as are consistent with the purpose of this section.

''(2) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used to conduct activities that include the development of training programs in collaboration with entities carrying out other programs, such as other programs authorized under this title, title II, and the Head Start Act.

''SEC. 3133. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.

''(a) PURPOSE.—The purpose of this section is to provide for—

''(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited English proficiency; and

''(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited English proficiency.

''(b) PROGRAM AUTHORIZED.—

''(1) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—The Secretary is authorized to award grants for a period of not more than 5 years to institutions of higher education, in consortia with State educational agencies or local educational agencies, to achieve the purpose of this section.

''(2) GRANTS TO STATE AND LOCAL EDUCATIONAL AGENCIES.—The Secretary is authorized to award grants for a period of not more than 5 years to State educational agencies and local educational agencies, for inservice professional development programs.

''(c) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with State educational agencies or local educational agencies, that offer degree programs that prepare new bilingual education teachers for teaching in order to increase the availability of teachers to provide high-quality education to limited English proficient students.

''SEC. 3134. BILINGUAL EDUCATION CAREER LADDER PROGRAM.

''(a) PURPOSE.—The purpose of this section is—

''(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to enable the personnel to meet high professional standards, including standards for certification and licensure as bilingual education teachers or for other types of educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and State educational agencies and local educational agencies; and

''(2) to help recruit and train secondary school students as bilingual education teachers and other types of educational personnel to serve limited English proficient students.

''(b) AUTHORIZATION.—

''(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education, in consortia with State educational agencies or local educational agencies, which consortia may include community-based organizations or professional education organizations.

''(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years.

''(c) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used—

''(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants involved;

''(2) to provide assistance for stipends and costs related to tuition, fees, and books for enrolling in courses required to complete the degree, and certification or licensing requirements for bilingual education teachers; and

''(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

''(d) SPECIAL CONSIDERATION.—In awarding the grants, the Secretary shall give special consideration to an applicant proposing a program that provides for—

''(1) participant completion of teacher education programs for a baccalaureate or master's degree, and certification requirements, which programs may include effective employment placement activities;

''(2) development of teacher proficiency in English as a second language, including developing proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

''(3) coordination with the Federal TRIO programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965, programs under title I of the National and Community Service Act of 1990, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train the students to become bilingual educators; and

''(4) the applicant's contribution of additional student financial aid to participating students.

''SEC. 3135. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The Secretary may award fellowships for master's, doctoral, and post-doctoral study related to instruction of children and youth of limited English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

''(2) INFORMATION.—The Secretary shall include information on the operation of, and the number of fellowships awarded under, the fellowship program in the evaluation required under section 3138.

''(b) FELLOWSHIP REQUIREMENTS.—

''(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

''(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

''(B) repay such assistance.

''(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary determines to be reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

''(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients to find employment in the field of bilingual education.

''SEC. 3136. APPLICATION.

''(a) IN GENERAL.—

''(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

''(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited English proficiency to determine such schools' need for, and the design of, the program for which funds are sought.

''(3) SPECIAL RULE.—

''(A) TRAINING PRACTICUM.—An eligible entity who proposes to conduct a master's- or doctoral-level program with funds received under this subpart shall submit an application under this section that contains an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited English proficiency.

''(B) WAIVER.—A recipient of a grant under this subpart for a program may waive the requirement that a participant in the program participate in the training practicum, for a degree candidate with significant experience in a

local school program serving children and youth of limited English proficiency.

''(4) STATE EDUCATIONAL AGENCY.—An eligible entity that submits an application under this section, with the exception of a school funded by the Bureau of Indian Affairs, shall submit a copy of the application to the appropriate State educational agency.

''(b) STATE REVIEW AND COMMENTS.—

''(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of such application, shall review the application and transmit such application to the Secretary.

''(2) COMMENTS.—

''(A) SUBMISSION OF COMMENTS.—Regarding applications submitted under this subpart, the State educational agency shall—

''(i) submit to the Secretary written comments regarding all such applications; and

''(ii) submit to each eligible entity the comments that pertain to such entity.

''(B) SUBJECT.—For purposes of this subpart, comments shall address—

''(i) how the activities to be carried out under the award will further the academic achievement and English proficiency of limited English proficient students served under the award; and

''(ii) how the application is consistent with the State plan required under section 1111.

''(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

''(d) COMMENT CONSIDERATION.—In making awards under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

''(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement specified in subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 3124, particularly such agency's ability to carry out data collection efforts, and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

''(f) SPECIAL RULE.—

''(1) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this subpart.

''(2) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience concerning the programs and activities authorized under this subpart and are otherwise qualified.

''SEC. 3137. STIPENDS.

''The Secretary shall provide, for persons participating in training programs under this subpart, for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate.

''SEC. 3138. PROGRAM EVALUATIONS.

''Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report containing the evaluation. Such report shall include information on—

''(1) the number of participants served through the program, the number of participants who completed program requirements, and the number of participants who took positions in an instructional setting with limited English proficient students;

''(2) the effectiveness of the program in imparting the professional skills necessary for participants to achieve the objectives of the program; and

''(3) the teaching effectiveness of graduates of the program or other participants who have completed the program.

''SEC. 3139. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.

''Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

''PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

''SEC. 3201. SHORT TITLE.

''This part may be cited as the 'Foreign Language Assistance Act of 1994'.

''SEC. 3202. PROGRAM AUTHORIZED.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary school and secondary school students.

''(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of 3 years.

''(b) REQUIREMENTS.—

''(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

''(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

''(A) show the promise of being continued beyond the grant period;

''(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

''(C) may include a professional development component.

''(c) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

''(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

''(3) SPECIAL RULE.—Not less than ¾ of the funds appropriated under section 3205 shall be used for the expansion of foreign language learning in the elementary grades.

''(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 3205 to evaluate the efficacy of programs under this part.

''SEC. 3203. APPLICATIONS.

''(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

''(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

''(1) include intensive summer foreign language programs for professional development;

''(2) link non-native English speakers in the community with the schools in order to promote two-way language learning;

''(3) promote the sequential study of a foreign language for students, beginning in elementary schools;

''(4) make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote foreign language study;

''(5) promote innovative activities such as foreign language immersion, partial foreign language immersion, or content-based instruction; and

''(6) are carried out through a consortium comprised of the agency receiving the grant and an elementary school or secondary school.

''SEC. 3204. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

''(a) INCENTIVE PAYMENTS.—From amounts appropriated under section 3205 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

''(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

''(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than 4 days per week throughout an academic year.

''SEC. 3205. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $35,000,000 for the fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 3204.

''PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

''SEC. 3301. PURPOSE.

''(a) FINDINGS.—The Congress finds that—

''(1) the education of our Nation's children and youth is 1 of the most sacred government responsibilities;

''(2) local educational agencies have struggled to fund adequately education services;

''(3) in the case of Plyler v. Doe, 457 U.S. 202 (1982), the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

''(4) immigration policy is solely a responsibility of the Federal Government.

''(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

''(1) provide high-quality instruction to immigrant children and youth; and

''(2) help such children and youth—

''(A) with their transition into American society; and

''(B) meet the same challenging State performance standards expected of all children and youth.

''SEC. 3302. STATE ADMINISTRATIVE COSTS.

''For any fiscal year, a State educational agency may reserve not more than 1.5 percent (2 percent if the State educational agency distributes funds received under this part to local educational agencies on a competitive basis) of the amount allocated to such agency under section 3304 to pay the costs of performing such agency's administrative functions under this part.

''SEC. 3303. WITHHOLDING.

''Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the

discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 3304. STATE ALLOCATIONS.

''(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 2002 through 2008 for the purpose set forth in section 3301.

''(b) ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary schools or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary schools or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

''(A) at least 500; or

''(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever is less.

''(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

''(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

''(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

''(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

''(e) RESERVATION OF FUNDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

''(A) AGENCIES WITH IMMIGRANT CHILDREN AND YOUTH.—At least ½ of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

''(B) AGENCIES WITH A SUDDEN INFLUX OF CHILDREN AND YOUTH.—Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

''(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 3307.

''(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

"SEC. 3305. STATE APPLICATIONS.

''(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

''(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

''(2) provide assurances that payments under this part will be used for purposes set forth in sections 3301 and 3307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, and other Acts as appropriate;

''(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

''(4) provide assurances that such payments, with the exception of payments reserved under section 3304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 3304(b)(1);

''(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

''(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

''(7) provide assurances—

''(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary schools or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

''(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purpose provided in this part, and a public agency shall administer such funds and property; and

''(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary school or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

''(8) provide that funds reserved under section 3304(e) be awarded on a competitive basis based on merit and need in accordance with such section; and

''(9) provide an assurance that State educational agencies and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

''(b) APPLICATION REVIEW.—

''(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

''(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

''(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

"SEC. 3306. ADMINISTRATIVE PROVISIONS.

''(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 3305 of the amount of such agency's allocation under section 3304 for the succeeding year.

''(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in nonpublic elementary schools and secondary schools, as required by section 3305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 3307. USES OF FUNDS.

''(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

''(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

''(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

''(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

''(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

''(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

''(6) such other activities, related to the purpose of this part, as the Secretary may authorize.

''(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with 1 or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

''(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

''(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''SEC. 3308. REPORTS.

''(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every 2 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

''(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 2 years, a report to the appropriate committees of the Congress concerning programs assisted under this part.

''SEC. 3309. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART D—STATE AND LOCAL GRANTS FOR LANGUAGE MINORITY STUDENTS

''SEC. 3321. POLICY AND PURPOSE.

''(a) POLICY.—It is the policy of the United States that, in order to ensure equal educational opportunity for all children and youth, and to promote educational excellence, the Federal Government should—

''(1) assist States and, through the States, local educational agencies and schools to build their capacity to establish, implement, and sustain programs of instruction and English language development for limited English proficient students;

''(2) hold States and, through the States, local educational agencies and schools accountable for increases in English proficiency and core content knowledge among limited English proficient students; and

''(3) promote parental and community participation in programs for limited English proficient students.

''(b) PURPOSES.—The purposes of this part are—

''(1) to assist all limited English proficient students, including recent immigrant students, to attain English proficiency as quickly and as effectively as possible;

''(2) to assist all limited English proficient students, including recent immigrant students, to achieve at high levels in the core academic subjects so that those students can meet the same challenging State content and student performance standards as all students are expected to meet, as required by section 1111(b)(1); and

''(3) to provide the assistance described in paragraphs (1) and (2) by—

''(A) streamlining language instruction educational programs into a program carried out through performance-based grants for State and local educational agencies to help limited English proficient students, including recent immigrant students, develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(B) requiring States and, through the States, local educational agencies and schools to—

''(i) demonstrate improvements in the English proficiency of limited English proficient students each fiscal year; and

''(ii) make adequate yearly progress with limited English proficient students, including recent immigrant students, as described in section 1111(b)(2); and

''(C) providing State educational agencies and local educational agencies with the flexibility to implement the instructional programs, tied to scientifically based research, that the agencies believe to be the most effective for teaching English.

''SEC. 3322. DEFINITIONS.

''Except as otherwise provided, in this part:

''(1) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 2102.

''(2) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

''(A) are aged 3 through 21;

''(B) were not born in any State; and

''(C) have not been attending 1 or more schools in any 1 or more States for more than 3 full academic years.

''(3) LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM.—The term 'language instruction educational program' means an instructional course—

''(A) in which a limited English proficient student is placed for the purpose of developing proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1); and

''(B) which may make instructional use of both English and a student's native language to develop English proficiency as quickly and as effectively as possible, and may include the participation of English proficient students if such course is designed to enable all participating students to become proficient in English and a second language.

''(4) LIMITED ENGLISH PROFICIENT STUDENT.—The term 'limited English proficient student' means an individual—

''(A) who is aged 3 through 21;

''(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

''(C)(i) who was not born in the United States or whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

''(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

''(II) who comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

''(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

''(D) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

''(i) the ability to meet the State's proficient level of performance on State assessments described in section 1111(b)(3);

''(ii) the opportunity to learn successfully in classrooms where the language of instruction is English; or

''(iii) the opportunity to participate fully in society.

''(5) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' includes a consortium of such agencies.

''(6) NATIVE LANGUAGE.—The term 'native language', used with reference to a limited English proficient student, means the language normally used by the parents of the student.

''(7) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research', used with respect to an activity or program authorized under this part, means an activity or program based on specific strategies and implementation of such strategies that, based on sound educational theory, research, and an evaluation (including a comparison of program characteristics), are effective in improving student achievement and performance and other program objectives.

''(8) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency' means a local educational agency in a State that does not participate in a program under this part for a fiscal year.

''(9) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

''SEC. 3323. PROGRAM AUTHORIZED.

''(a) GRANTS AUTHORIZED.—The Secretary shall award grants, from allotments under subsection (b), to each State having a State plan approved under section 3325(c), to enable the State to help limited English proficient students become proficient in English.

''(b) RESERVATIONS AND ALLOTMENTS.—

''(1) RESERVATIONS.—From the amount appropriated under 3003(b) to carry out this part for each fiscal year, the Secretary shall reserve—

''(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs;

''(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part as determined by the Secretary, for activities, approved by the Secretary, consistent with this part;

''(C) ½ of 1 percent of such amount for payments to the Commonwealth of Puerto Rico, for activities, approved by the Secretary, consistent with this part;

''(D) 6 percent of such amount to carry out national activities under section 3332; and

''(E) such sums as may be necessary to make continuation awards under paragraph (4).

''(2) STATE ALLOTMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), from the amount appropriated under 3003(b) for any fiscal year that remains after making reservations under paragraph (1), the Secretary shall allot to each State having a State plan approved under section 3325(c)—

''(i) an amount that bears the same relationship to 67 percent of the remainder as the number of limited English proficient students in the State bears to the number of such students in all States; and

''(ii) an amount that bears the same relationship to 33 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

''(B) MINIMUM ALLOTMENTS.—No State shall receive an allotment under this paragraph that is less than ½ of 1 percent of the amount available for allotments under this paragraph.

''(3) DATA.—For purposes of paragraph (2), for the purpose of determining the number of

limited English proficient students in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such students, which may include—

''(A) data available from the Bureau of the Census; or

''(B) data submitted to the Secretary by the States.

''(4) CONTINUATION AWARDS.—

''(A) IN GENERAL.—Before making allotments to States under paragraph (2) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(E) to make continuation awards to recipients who received grants or fellowships for the fiscal year before the first fiscal year described in section 3003(b) under—

''(i) subparts 1 and 3 of part A of title VII (as in effect on the day before the effective date of the Better Education for Students and Teachers Act); or

''(ii) subparts 1 and 3 of part A.

''(B) USE OF FUNDS.—The Secretary shall make the grants in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

''(c) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—

''(1) NONPARTICIPATING STATE.—If a State educational agency chooses not to participate in a program under this part for a fiscal year, or fails to submit an approvable application under section 3325 for a fiscal year, a specially qualified agency in such State desiring a grant under this part for the fiscal year shall apply directly to the Secretary to receive a grant under this subsection.

''(2) DIRECT AWARDS.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under subsection (b)(2) directly to specially qualified agencies in the State desiring a grant under this part and having an application approved under section 3325(c).

''(3) ADMINISTRATIVE FUNDS.—A specially qualified agency that receives a direct grant under this subsection may use not more than 1 percent of the grant funds for a fiscal year for the administrative costs of carrying out this part.

''(d) REALLOTMENT.—Whenever the Secretary determines that any amount of a payment made to a State or specially qualified agency under this part for a fiscal year will not be used by the State or agency for the purpose for which the payment was made, the Secretary shall, in accordance with such rules as the Secretary determines to be appropriate, make such amount available to other States or specially qualified agencies for carrying out that purpose.

''SEC. 3324. WITHIN-STATE ALLOCATIONS.

''(a) GRANT AWARDS.—Each State educational agency receiving a grant under this part for a fiscal year shall use a portion equal to at least 95 percent of the agency's allotment under section 3323(b)(2)—

''(1) to award grants, from allocations under subsection (b), to local educational agencies in the State to carry out the activities described in section 3327(b); and

''(2) to make grants under subsection (c) to local educational agencies in the State that are described in that subsection to carry out the activities described in section 3327(c).

''(b) ALLOCATION FORMULA.—

''(1) IN GENERAL.—After making the reservations under subsection (c), each State educational agency receiving a grant under section 3323(b)(2) shall award grants for a fiscal year by allocating to each local educational agency in the State having a plan approved under section 3326 an amount that bears the same relationship to the portion described in subsection (a)(1) and remaining after the reservations as the population of limited English proficient students in schools served by the local educational agency bears to the population of limited English proficient students in schools served by all local educational agencies in the State.

''(2) AMOUNT OF GRANTS.—A State shall not award a grant from an allocation made under this subsection in an amount of less than $10,000.

''(c) RESERVATIONS.—

''(1) GRANTS TO LOCAL EDUCATIONAL AGENCIES THAT EXPERIENCE SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—

''(A) IN GENERAL.—A State educational agency receiving a grant under this part for a fiscal year shall reserve a portion equal to not more than 15 percent of the agency's allotment under section 3323(b)(2) to award grants to local educational agencies in the State that experience a substantial increase in the number of immigrant children and youth enrolled in public elementary schools and secondary schools under the jurisdiction of the agencies.

''(B) SUBSTANTIAL INCREASE.—For the purpose of this paragraph, the term 'substantial increase', used with respect to the number of immigrant children and youth enrolled in schools for a fiscal year, means—

''(i) an increase of not less than 20 percent, or of not fewer than 50 individuals, in the number of such children and youth so enrolled, relative to the preceding year; or

''(ii) an increase of not less than 20 percent in such number, relative to the preceding year, in the case of a local educational agency that has limited or no experience in serving limited English proficient students.

''(2) STATE ACTIVITIES.—Each State educational agency receiving a grant under this part may reserve not more than 5 percent of the agency's allotment under section 3323(b)(2) to carry out State activities described in the State plan submitted under section 3325.

''(3) ADMINISTRATIVE EXPENSES.—From the amount reserved under paragraph (2), a State educational agency may use not more than 2 percent for the planning costs and administrative costs of carrying out the State activities described in the State plan and providing grants to local educational agencies.

''SEC. 3325. STATE AND SPECIALLY QUALIFIED AGENCY PLANS.

''(a) PLAN REQUIRED.—Each State educational agency and specially qualified agency desiring a grant under this part shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(b) CONTENTS.—Each plan submitted under subsection (a) shall—

''(1) describe how the State or specially qualified agency will establish standards and benchmarks for English language proficiency that are derived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the State content and student performance standards described in section 1111(b)(1);

''(2) contain an assurance that the—

''(A) State educational agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and second language acquisition specialists, in setting the performance objectives; or

''(B) specially qualified agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and second language acquisition specialists, in setting the performance objectives described in section 3329;

''(3) describe how—

''(A) in the case of a State educational agency, the State educational agency will hold local educational agencies and elementary schools and secondary schools accountable for—

''(i) meeting all performance objectives described in section 3329;

''(ii) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

''(iii) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this part develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1); and

''(B) in the case of a specially qualified agency, the agency will hold elementary schools and secondary schools accountable for—

''(i) meeting all performance objectives described in section 3329;

''(ii) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

''(iii) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this part develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(4) in the case of a specially qualified agency, describe the activities for which assistance is sought, and how the activities will increase the effectiveness with which students develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(5) in the case of a State educational agency, describe how local educational agencies in the State will be given the flexibility to teach limited English proficient students—

''(A) using a language instruction curriculum that is tied to scientifically based research and has been demonstrated to be effective; and

''(B) in the manner the local educational agencies determine to be the most effective; and

''(6) describe how—

''(A) in the case of a State educational agency, the State educational agency will, if requested—

''(i) provide technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of identifying and implementing language instruction educational programs and curricula that are tied to scientifically based research;

''(ii) provide technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of helping limited English proficient students meet the same challenging State content standards and challenging State student performance standards as all students are expected to meet;

''(iii) provide technical assistance to local educational agencies and elementary schools and secondary schools to identify or develop and implement measures of English language proficiency; and

''(iv) provide technical assistance to local educational agencies and elementary schools and secondary schools for the purposes of promoting parental and community participation in programs that serve limited English proficient students; and

''(B) in the case of a specially qualified agency, the specially qualified agency will—

''(i) provide technical assistance to elementary schools and secondary schools served by the specially qualified agency for the purposes of identifying and implementing programs and curricula that are tied to scientifically based research; and

''(ii) provide technical assistance to elementary schools and secondary schools served by the specially qualified agency for the purposes described in clauses (ii), (iii), and (iv) of subparagraph (A).

''(c) APPROVAL.—The Secretary, after using a peer review process, shall approve a State plan or a specially qualified agency plan if the plan

meets the requirements of this section, and holds reasonable promise of achieving the purposes described in section 3321(b).

''(d) DURATION OF THE PLAN.—

''(1) IN GENERAL.—Each State plan or specially qualified agency plan shall—

''(A) remain in effect for the duration of the State educational agency's or specially qualified agency's participation under this part; and

''(B) be periodically reviewed and revised by the State educational agency or specially qualified agency, as necessary, to reflect changes to the State's or specially qualified agency's strategies and programs carried out under this part.

''(2) ADDITIONAL INFORMATION.—

''(A) SIGNIFICANT CHANGES.—If the State educational agency or specially qualified agency makes significant changes to the plan, such as the adoption of new performance objectives or assessment measures, the State educational agency or specially qualified agency shall submit information regarding the significant changes to the Secretary.

''(B) APPROVAL.—The Secretary shall approve such changes to an approved plan, unless the Secretary determines that the changes will not result in the State or specially qualified agency meeting the requirements, or fulfilling the purposes, of this part.

''(e) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 5502.

''(f) SECRETARY ASSISTANCE.—The Secretary shall provide technical assistance, if requested, in the development of English language development standards and English language proficiency assessments.

''SEC. 3326. LOCAL PLANS.

''(a) PLAN REQUIRED.—Each local educational agency desiring a grant from the State educational agency under section 3324 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

''(b) CONTENTS.—Each plan submitted under subsection (a) shall—

''(1) describe how the local educational agency will use the grant funds to meet all performance objectives described in section 3329;

''(2) describe how the local educational agency will hold elementary schools and secondary schools accountable for—

''(A) meeting the performance objectives;

''(B) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

''(C) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this part develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1);

''(3) describe how the local educational agency will promote parental and community participation in programs for limited English proficient students;

''(4) contain an assurance that the local educational agency consulted with teachers (including second language acquisition specialists), school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing the local educational agency plan;

''(5) describe how the local educational agency will use the disaggregated results of the student assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency under this part and under title I to determine whether the schools are making the adequate yearly progress necessary to ensure that limited English proficient students attending the schools will meet the State's proficient level of performance on the State assessment described in section 1111(b)(3) within 10 years after the date of enactment of the Better Education for Students and Teachers Act; and

''(6) describe how language instruction educational programs will ensure that limited English proficient students being served by the programs develop English language proficiency as quickly and as effectively as possible.

''SEC. 3327. USES OF FUNDS.

''(a) ADMINISTRATIVE EXPENSES.—Each local educational agency receiving grant funds under section 3324(b) for a fiscal year may use, from those grant funds, not more than 1 percent of the grant funds the agency receives under section 3324 for the fiscal year for the cost of administering this part.

''(b) ACTIVITIES.—Each local educational agency receiving grant funds under section 3324(b)—

''(1) shall use the grant funds that are not used under subsection (a)—

''(A) to increase limited English proficient students' proficiency in English by providing high-quality language instruction educational programs that are—

''(i) tied to scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency; and

''(ii) tied to scientifically based research demonstrating the effectiveness of the programs in increasing student performance in the core academic subjects; and

''(B) to provide high-quality professional development activities for teachers of limited English proficient students, including teachers in classroom settings that are not the settings of language instruction educational programs, that are—

''(i) designed to enhance the ability of the teachers to understand and use curricula, assessment measures, and instructional strategies for limited English proficient students;

''(ii) tied to scientifically based research demonstrating the effectiveness of those activities in increasing students' English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of those teachers; and

''(iii) of sufficient intensity and duration (not to include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this clause shall not apply to an activity that is 1 component described in a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and the local educational agency; and

''(2) may use the grant funds that are not used under subsection (a) to provide parental and community participation programs that are designed to improve language instruction educational programs for limited English proficient students, and to assist parents to become active participants in the education of their children.

''(c) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—Each local educational agency receiving grant funds under section 3324(c)(1) shall use the grant funds to pay for activities that provide enhanced instructional opportunities for such children and youth, which may include—

''(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

''(2) payment of salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

''(3) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

''(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with the grant involved;

''(5) basic instructional services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition, or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services;

''(6) other instructional services that are designed to assist immigrant students to achieve in elementary and secondary schools in the United States, such as literacy programs, programs of introduction to the educational system, and civics education; and

''(7) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant students by offering comprehensive community social services, such as English as a second language courses, health care, job training, child care, and transportation services.

''(d) SUPPLEMENT NOT SUPPLANT.—Funds appropriated to carry out this part shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for eligible individuals.

''SEC. 3328. PROGRAM REQUIREMENTS.

''(a) PROHIBITION.—In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient students.

''(b) TEACHER ENGLISH FLUENCY.—Each local educational agency receiving grant funds under section 3324 shall certify to the State educational agency that all teachers in any language instruction educational program for limited English proficient students funded under this part are fluent in English and any other language used for instruction.

''SEC. 3329. PERFORMANCE OBJECTIVES.

''(a) IN GENERAL.—Each State educational agency or specially qualified agency receiving a grant under this part shall develop annual measurable performance objectives that are research-based, and age- and developmentally appropriate, with respect to helping limited English proficient students develop proficiency in English as quickly and as effectively as possible, while meeting State content and student performance standards as required by section 1111(b)(1). For each annual measurable performance objective, the agency shall specify an incremental percentage increase for the objective to be attained for each of the fiscal years (after the first fiscal year) for which the agency receives a grant under this part, relative to the preceding fiscal year, including increases in the number of limited English proficient students demonstrating an increase in performance on annual assessments.

''(b) ACCOUNTABILITY.—

''(1) FOR STATES.—Each State educational agency receiving a grant under this part shall be held accountable for meeting the annual measurable performance objectives under this part and the adequate yearly progress levels for limited English proficient students under section 1111(b)(2)(B). Any State educational agency that fails to meet the annual performance objectives shall be subject to sanctions under section 6202.

''(2) FOR SPECIALLY QUALIFIED AGENCIES.—Each specially qualified agency receiving a grant under this part shall be held accountable for meeting annual measurable performance objectives, be held accountable for making yearly progress, and be subject to sanctions, in a manner that the Secretary determines is appropriate and comparable to the manner used for State educational agencies specified in paragraph (1).

"SEC. 3330. REGULATIONS AND NOTIFICATION.

''(a) REGULATION RULE.—In developing regulations under this part, the Secretary shall consult with State educational agencies, local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in the education of limited English proficient students.

''(b) PARENTAL NOTIFICATION.—

''(1) IN GENERAL.—Each local educational agency participating in a language instruction educational program under this part shall notify parents of a student participating in the program of—

''(A) the student's level of English proficiency, how that level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age- and grade-appropriate academic attainment, grade promotion, and graduation;

''(B)(i) the programs that are available to meet the student's educational strengths and needs, and how those programs differ in content and instructional goals from other language instruction educational programs that serve limited English proficient students; and

''(ii) in the case of a student with a disability who participates in the language instruction educational program, how the program meets the objectives of the individualized education program of the student;

''(C)(i) the instructional goals of the language instruction educational program in which the student participates, and how the program will specifically help the limited English proficient student learn English and meet age-appropriate standards for grade promotion and graduation;

''(ii) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

''(iii) the reasons the student was identified as being in need of a language instruction educational program; and

''(D) how parents can participate and be involved in the language instruction educational program in order to help their children achieve.

''(2) OPTION TO DECLINE.—

''(A) IN GENERAL.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of the student in a language instruction educational program, and shall be given an opportunity to decline that enrollment if the parent so chooses.

''(B) OBLIGATIONS.—A local educational agency shall not be relieved of any of the agency's obligations under title VI of the Civil Rights Act of 1964 because a parent chooses not to enroll a student in a language instruction educational program.

''(3) RECEIPT OF INFORMATION.—A parent described in paragraph (1) shall receive the information required by this subsection in a manner and form understandable to the parent including, if necessary and to the extent feasible, receiving the information in the language normally used by the parent. The parent shall receive—

''(A) timely information about programs funded under this part; and

''(B) notice of opportunities, if applicable, for regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

''(4) SPECIAL RULE.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.

''(5) LIMITATIONS ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State's, local educational agency's, elementary school's, or secondary school's specific challenging English language development standards or assessments, curriculum, or program of instruction, as a condition of eligibility to receive grant funds under this part.

"SEC. 3331. ADMINISTRATION.

''(a) STATE AND LOCAL PROGRAMS.—This part shall be in effect only in a fiscal year described in section 3003(b).

''(b) OTHER LAW.—In such a fiscal year—

''(1) parts A, C, E (other than section 3405), and F shall not be in effect; and

''(2) section 3404 shall apply only with respect to grants provided and activities carried out under part B and this part.

''(c) REFERENCES.—In such a fiscal year, references in Federal law to part A shall be considered to be references to this part.

"SEC. 3332. NATIONAL LEADERSHIP ACTIVITIES TO ENSURE EDUCATIONAL EXCELLENCE FOR LIMITED ENGLISH PROFICIENT STUDENTS.

''(a) IN GENERAL.—The Secretary shall use funds made available under section 3323(b)(1)(D) to carry out each of the activities described in subsections (b) and (c).

''(b) NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.—The Secretary shall award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for limited English proficient students and assist educational personnel working with such students to meet high professional standards, including standards for certification and licensure as bilingual education teachers. Grants awarded under this subsection may be used—

''(1) for inservice professional development programs that serve teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, a language instruction educational program;

''(2) for preservice professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

''(3) for the development of curricula appropriate to the needs of the consortia participants involved; and

''(4) for financial assistance and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, and meet certification or licensing requirements for bilingual education teachers.

''(c) NATIONAL CLEARINGHOUSE.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about second language acquisition programs for limited English proficient students, and related programs. The National Clearinghouse shall—

''(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Office of Educational Research and Improvement;

''(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

''(3) develop a database management and monitoring system for improving the operation and effectiveness of federally funded language instruction educational programs;

''(4) disseminate information on best practices related to—

''(A) the development of accountability systems that monitor the academic progress of limited English proficient students in language instruction educational programs; and

''(B) the development of standards and English language proficiency assessments for language instruction educational programs;

''(5) develop, maintain, and disseminate a listing, by geographical area, of education professionals, parents, teachers, administrators, community members, and others, who are native speakers of languages other than English, for use as a resource by local educational agencies and schools in the development and implementation of language instruction educational programs; and

''(6) publish, on an annual basis, a list of grant recipients under this section.

"PART E—ADMINISTRATION

"SEC. 3401. RELEASE TIME.

''The Secretary shall allow entities carrying out professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

"SEC. 3402. EDUCATION TECHNOLOGY.

''Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

"SEC. 3403. NOTIFICATION.

''The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within 3 working days of the date an award under part A is made to an eligible entity within the State.

"SEC. 3404. CONTINUED ELIGIBILITY.

''Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

"SEC. 3405. COORDINATION AND REPORTING REQUIREMENTS.

''(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under this title and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

''(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

''(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

''(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the

Committee on Health, Education, Labor, and Pensions of the Senate and to the Committee on Education and the Workforce of the House of Representatives a report on—

''(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

''(2) a critical synthesis of data reported by the States pursuant to section 3124;

''(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding 5 fiscal years;

''(4) the major findings of research carried out under this title; and

''(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

''PART F—GENERAL PROVISIONS

''SEC. 3501. DEFINITIONS.

''Except as otherwise provided, in this title:

''(1) BILINGUAL EDUCATION PROGRAM.—The term 'bilingual education program' means an educational program for limited English proficient students that—

''(A) makes instructional use of both English and a student's native language;

''(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards;

''(C) may also develop the native language skills of limited English proficient students, or ancestral language skills of American Indians (within the meaning of part A of title VII), Alaska Natives (as defined in section 7306), Native Hawaiians (as defined in section 7207), and native residents of the outlying areas; and

''(D) may include the participation of English proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

''(2) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

''(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority (as such terms are defined in section 3004) that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

''(4) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled College or University Assistance Act of 1978.

''(5) DIRECTOR.—The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 209 of the Department of Education Organization Act.

''(6) FAMILY EDUCATION PROGRAM.—

''(A) IN GENERAL.—The term 'family education program' means a bilingual education or special alternative instructional program that—

''(i) is designed—

''(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

''(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

''(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

''(iii) gives preference to participation by parents and immediate family members of children attending school.

''(B) INSTRUCTION FOR HIGHER EDUCATION AND EMPLOYMENT.—Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

''(7) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

''(A) are aged 3 through 21;

''(B) were not born in any State; and

''(C) have not been attending 1 or more schools in any 1 or more States for more than 3 full academic years.

''(8) LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.—The terms 'limited English proficiency' and 'limited English proficient', when used with reference to an individual, mean an individual—

''(A)(i) who was not born in the United States, or whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

''(ii) who is a Native American or Alaska Native, or is a native resident of the outlying areas, and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

''(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

''(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in society.

''(9) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the meanings given such terms in section 103 of the Native American Languages Act.

''(10) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs and with not less than 5 years successful experience in providing educational services in traditional Native American languages.

''(11) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

''(12) OFFICE.—The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

''(13) OTHER PROGRAMS FOR PERSONS OF LIMITED ENGLISH PROFICIENCY.—The term 'other programs for persons of limited English proficiency' means any other programs administered by the Secretary that serve persons of limited English proficiency.

''(14) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

''(15) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—The term 'special alternative instructional program' means an educational program for limited English proficient students that—

''(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

''(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards; and

''(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

''SEC. 3502. REGULATIONS AND NOTIFICATION.

''(a) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

''(b) PARENTAL NOTIFICATION.—

''(1) IN GENERAL.—Parents of children and youth participating in programs assisted under part A shall be informed of—

''(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement, and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

''(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

''(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade promotion and graduation, including—

''(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

''(ii) the reasons for the selection of their child as being in need of bilingual education.

''(2) OPTION TO DECLINE.—

''(A) IN GENERAL.—Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

''(B) CIVIL RIGHTS OBLIGATIONS.—A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in programs carried out under part A.

''(3) RECEIPT OF INFORMATION.—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

''(A) timely information about projects funded under part A; and

''(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

''(4) SPECIAL RULE.—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.''.

TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

SEC. 401. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Title IV (20 U.S.C. 7101 et seq.) is amended to read as follows:

''TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

''PART A—STATE GRANTS

''SEC. 4001. SHORT TITLE.

''This part may be cited as the 'Safe and Drug-Free Schools and Communities Act of 1994'.

''SEC. 4002. FINDINGS.

''Congress makes the following findings:

''(1) Every student should attend a school in a drug- and violence-free learning environment.

''(2) The widespread illegal use of alcohol and drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

''(3) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety, youth development, positive school outcomes, and to reduce the demand for and illegal use of alcohol, tobacco and drugs throughout the Nation. Schools, local organizations, parents, students, and communities throughout the Nation have a special responsibility to work together to combat the continuing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

''(4) Drug and violence prevention programs are most effective when implemented within a scientifically based research, drug and violence prevention framework of proven effectiveness.

''(5) Research clearly shows that community contexts contribute to substance abuse and violence.

''(6) Substance abuse and violence are intricately related and must be dealt with in a holistic manner.

''(7) Research has documented that parental behavior and environment directly influence a child's inclination to use alcohol, tobacco or drugs.

''SEC. 4003. PURPOSE.

''The purpose of this part is to support programs that prevent violence in and around schools and prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, school, and community efforts and resources, through the provision of Federal assistance to—

''(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, high quality alternative education for chronically disruptive, drug-abusing, and violent students that includes drug and violence prevention programs, rehabilitation referral, and education in elementary and secondary schools for the development and implementation of policies that set clear and appropriate standards regarding the illegal use of alcohol, tobacco and drugs, and for violent behavior (including intermediate and junior high schools);

''(2) States for grants to, and contracts with, community-based organizations and public and private enties for programs of drug and violence prevention including community mobilization, early intervention, rehabilitation referral, and education;

''(3) States for development, training, technical assistance, and coordination activities; and

''(4) public and private entities to provide technical assistance, conduct training, demonstrations, and evaluation, and to provide supplementary services and community mobilization activities for the prevention of drug use and violence among students and youth.

''SEC. 4004. FUNDING.

''There are authorized to be appropriated—

''(1) $700,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, for State grants under subpart 1;

''(2) $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, for national programs under subpart 2;

''(3) $75,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years, for the National Coordinator Initiative under section 4122;

''(4) $5,000,000 for each of fiscal years 2002 through 2004 to carry out section 4125; and

''(5) $25,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out section 4126.

''Subpart 1—State Grants for Drug and Violence Prevention Programs

''SEC. 4111. RESERVATIONS AND ALLOTMENTS.

''(a) RESERVATIONS.—From the amount made available under section 4004(1) to carry out this subpart for each fiscal year, the Secretary—

''(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

''(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

''(3) may reserve not more than $2,000,000 for the national impact evaluation required by section 4117(a); and

''(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

''(b) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

''(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

''(B) one-half of such remainder according to the ratio between the amount each State received under section 1124A for the preceding year and the sum of such amounts received by all the States.

''(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

''(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

''(4) DEFINITIONS.—In this subsection:

''(A) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(B) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' includes educational service agencies and consortia of such agencies.

''(c) LIMITATION.—Amounts appropriated under section 4004(2) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 4004(1) for the fiscal year involved are at least 10 percent greater that the amounts appropriated under such section 4004(1) for the previous fiscal year.

''SEC. 4112. STATE APPLICATIONS.

''(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

''(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer to provide safe, orderly, and drug-free schools and communities;

''(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities and the prevalence of risk or protective factors, buffers or assets or other scientifically based research variables in the school and community;

''(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed together, with each such officer or State representative, in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

''(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a);

''(5) contains assurances that the State education agency and the Governor will develop their respective applications in consultation with an advisory council that includes, to the extent practicable, representatives from school districts, businesses, parents, youth, teachers, administrators, pupil services personnel, private schools, appropriate State agencies, community-based organizations, the medical profession, law enforcement, the faith-based community and other groups with interest and expertise in alcohol, tobacco, drug, and violence prevention;

''(6) contains assurances that the State education agency and the Governor involve the representatives described in paragraph (5), on an ongoing basis, to review program evaluations and other relevant material and make recommendations to the State education agency and the Governor on how to improve their respective alcohol, tobacco, drug, and violence prevention programs;

''(7) contains a list of the State's results-based performance measures for drug and violence prevention, that shall—

''(A) be focused on student behavior and attitudes and be derived from the needs assessment;

''(B) include targets and due dates for the attainment of such performance measures; and

''(C) include a description of the procedures that the State will use to inform local educational agencies of such performance measures for assessing and publicly reporting progress toward meeting such measures or revising them as needed; and

''(8) includes any other information the Secretary may require.

''(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also

contain a comprehensive plan for the use of funds under section 4113(a) by the State educational agency that includes—

''(1) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116;

''(2) a description of how the State educational agency will use funds under section 4113(b), including how the agency will receive input from parents regarding the use of such funds;

''(3) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies; and

''(4) a description of the procedures the State educational agency will use to review applications from and allocate funding to local educational agencies under section 4115 and how such review will receive input from parents.

''(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes, with respect to each activity to be carried out by the State—

''(1) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

''(2) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts, 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 of demonstrated effectiveness which provide services in low-income communities, such as mentoring programs;

''(5) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning and community mobilization activities; and

''(6) a specific description of how input from parents will be sought regarding the use of funds under section 4114(a).

''(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

''(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 2002 a 1-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 2002 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

''SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.

''(a) USE OF FUNDS.—An amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

''(b) STATE LEVEL PROGRAMS.—

''(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

''(A) voluntary training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, 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 technology-based learning resources), for consideration by local educational agencies;

''(C) making available to local educational agencies cost effective scientifically based research programs for youth violence and drug abuse prevention;

''(D) demonstration projects in drug and violence prevention, including service-learning projects and mentoring programs;

''(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

''(F) training, technical assistance and demonstration projects to address the impact of family violence on school violence and substance abuse;

''(G) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart;

''(H) the evaluation of activities carried out within the State under this part; and

''(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 subsection directly, or through grants or contracts.

''(c) STATE ADMINISTRATION.—

''(1) IN GENERAL.—A State educational agency may use not more than 5 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

''(2) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM.—In carrying out its responsibilities under this part, a State shall implement a uniform management information and reporting system that includes information on the types of curricula, programs and services provided by the State, Governor, local education agencies, and other recipients of funds under this title.

''(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

''(1) IN GENERAL.—A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

''(2) DISTRIBUTION.—A State educational agency shall distribute amounts under paragraph (1) in accordance with any one of the following subparagraphs:

''(A) ENROLLMENT AND COMBINATION APPROACH.—Of the amount distributed under paragraph (1), a State educational agency shall distribute—

''(i) at least 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

''(ii) not to exceed 30 percent of any amounts remaining after amounts are distributed under clause (i)—

''(I) to each local educational agency in an amount determined appropriate by the State educational agency; or

''(II) to local educational agencies that the State education agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

''(B) COMPETITIVE AND NEED APPROACH.—Of the amount distributed under paragraph (1), a State educational agency shall distribute—

''(i) not to exceed 70 percent of such amount to local educational agencies that the State agency determines, through a competitive process, have the greatest need for funds to carry out drug and violence prevention programs based on criteria established by the State agency and authorized under this subpart; and

''(ii) at least 30 percent of any amounts remaining after amounts are distributed under clause (i) to local educational agencies that the State agency determines have a need for additional funds to carry out the program authorized under this subpart.

''(3) CONSIDERATION OF OBJECTIVE DATA.—For purposes of paragraph (2), in determining which local educational agencies have the greatest need for funds, the State educational agency shall consider objective data which may include—

''(A) high or increasing rates of alcohol or drug use among youth;

''(B) high or increasing rates of victimization of youth by violence and crime;

''(C) high or increasing rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

''(D) the extent of illegal gang activity;

''(E) high or increasing incidence of violence associated with prejudice and intolerance;

''(F) high or increasing rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

''(G) high or increasing rates of referrals of youths to juvenile court;

''(H) high or increasing rates of expulsions and suspensions of students from schools;

''(I) high or increasing rates of reported cases of child abuse and domestic violence; and

''(J) high or increasing rates of drug related emergencies or deaths.

''(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

''(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—

''(1) RETURN.—Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

''(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

''(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

''(2) REALLOCATION.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

''(A) an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

''(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

''SEC. 4114. GOVERNOR'S PROGRAMS.

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 4111(b)(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

''(2) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the 20 percent described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section. The chief executive officer of a State may use amounts under this paragraph to award grants to State, county, or local law enforcement agencies, including district attorneys, in consultation with local education agencies or community-based agencies, for the purposes of carrying out drug abuse and violence prevention activities.

''(b) STATE PLAN.—Amounts shall be used under this section in accordance with a State plan submitted by the chief executive office of the State. Such State plan shall contain—

''(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools in the State (including private school students who participate in the States's drug and violence prevention programs) that is based on ongoing local assessment or evaluation activities 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 in schools and communities in the State;

''(3) a description of the scientifically based research strategies and programs, which shall be used to prevent or reduce drug use, violence, or disruptive behavior, which shall include—

''(A) a specification of the objectively measurable goals, objectives, and activities for the program;

''(B) a specification for how risk factors, if any, which have been identified will be targeted through scientifically based research programs; and

''(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through scientifically based research programs;

''(4) a specification for the method or methods by which measurements of program goals will be achieved; and

''(5) a specification for how the evaluation of the effectiveness of the prevention program will be assessed and how the results will be used to refine, improve, and strengthen the program.

''(c) PROGRAMS AUTHORIZED.—

''(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) directly for grants to or contracts with parent groups, schools, community action and job training agencies, community-based organizations, community anti-drug coalitions, law enforcement education partnerships, and public and private entities and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (d) for—

''(A) children and youth who are not normally served by State or local educational agencies; or

''(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

''(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

''(d) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (c) shall be used to carry out the comprehensive State plan as required under section 4112(a)(1) through programs and activities such as—

''(1) disseminating information about drug and violence prevention;

''(2) the voluntary training of parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, health education (as it relates to drug and violence prevention), domestic violence and child abuse education (as it relates to drug and violence prevention), early intervention, pupil services, or rehabilitation referral;

''(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, family violence prevention, community service, service-learning, mentoring, and other appropriate services;

''(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

''(5) activities to protect students traveling to and from school;

''(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

''(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

''(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

''(9) developing and implementing activities to prevent and reduce dating violence;

''(10) developing and implementing strategies to prevent illegal gang activity;

''(11) coordinating and conducting school and community-wide violence and safety and drug abuse assessments and surveys;

''(12) service-learning projects that encourage drug- and violence-free lifestyles;

''(13) evaluating programs and activities assisted under this section;

''(14) developing and implementing community mobilization activities to undertake environmental change strategies related to substance abuse and violence;

''(15) developing, establishing, or improving alternative educational opportunities for chronically disruptive, drug-abusing, and violent students that are designed to promote drug and violence prevention, reduce disruptive 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;

''(16) training teachers, pupil services personnel, and other appropriate school staff on effective strategies for dealing with chronically disruptive, drug-abusing, and violent students;

''(17) partnerships between local law enforcement agencies, including district attorneys, and local education agencies or community-based agencies; and

''(18) alternative programs for the education and discipline of chronically violent and disruptive students as it relates to drug and violence prevention.

''SEC. 4115. LOCAL APPLICATIONS.

''(a) APPLICATION REQUIRED.—

''(1) IN GENERAL.—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

''(2) DEVELOPMENT.—

''(A) CONSULTATION.—A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

''(B) DUTIES OF ADVISORY COUNCIL.—In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

''(i) disseminate information about scientifically based research drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

''(ii) advise the local educational agency regarding how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities;

''(iii) ensure that a mechanism is in place to enable local educational agencies to have access to up-to-date information concerning the agencies that administer related programs, projects, and activities and any changes in the law that alter the duties of the local educational agencies with respect to activities conducted under this subpart; and

''(iv) review program evaluations and other relevant material and make recommendations on an active and ongoing basis to the local educational agency on how to improve such agency's drug and violence prevention programs.

''(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

''(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

''(2) an analysis, based on data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence, or protective factors, buffers or assets or other scientifically based research variables in the school and community;

''(3) a description of the scientifically based research strategies and programs, which shall be used to prevent or reduce drug use, violence, or disruptive behavior, which shall include—

''(A) a specification of the objectively measurable goals, objectives, and activities for the program, which shall include—

''(i) reductions in the use of alcohol, tobacco, and illicit drugs and violence by youth;

''(ii) specific reductions in the prevalence of identified risk factors;

''(iii) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; or

''(iv) other scientifically based research goals, objectives, and activities that are identified as part of the application that are not otherwise covered under clauses (i) through (iii);

''(B) a specification for how risk factors, if any, which have been identified will be targeted through scientifically based research programs; and

''(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through scientifically based research programs;

''(4) a specification for the method or methods by which measurements of program goals will be achieved;

''(5) a specification for how the evaluation of the effectiveness of the prevention program will

be assessed and how the results will be used to refine, improve, and strengthen the program;

''(6) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

''(A) appropriate and effective discipline policies that prohibit disorderly conduct, the possession of firearms and other weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

''(B) security procedures at school and while students are on the way to and from school;

''(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments; and

''(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

''(7) such other information and assurances as the State educational agency may reasonably require.

''(c) REVIEW OF APPLICATION.—

''(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

''(2) CONSIDERATIONS.—

''(A) IN GENERAL.—In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(6) and the extent to which the proposed plan provides a thorough assessment of the substance abuse and violence problem, uses objective data and the knowledge of a wide range of community members, develops measurable goals and objectives, and implements scientifically based research programs that have been shown to be effective and meet identified needs.

''(B) DISAPPROVAL.—A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

''SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

''(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

''(1) be designed, for all students and school employees, to—

''(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by school employees;

''(B) prevent violence and promote school safety; and

''(C) create a disciplined environment conducive to learning;

''(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart;

''(3) implement activities which shall include—

''(A) a thorough assessment of the substance abuse 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, developmentally-, and scientifically based research drug and violence prevention program carried out under this subpart may include—

''(1) drug or violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs or violence, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

''(2) programs of drug or violence prevention, health education (as it relates to drug and violence prevention), domestic violence and child abuse education (as it relates to drug and violence prevention), early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

''(A) the dissemination of information about drug or violence prevention;

''(B) the professional development or voluntary training of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services, mentoring or rehabilitation referral; and

''(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, 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, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, domestic violence and child abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence, or otherwise decrease the prevalence of risk factors or increase the prevalence of protective factors, buffers, or assets in the community;

''(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

''(A) the dissemination of information about school safety and discipline;

''(B) the professional development or voluntary training of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

''(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

''(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools;

''(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;

''(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

''(6) administrative approaches to promote school safety, including professional development for principals and administrators to promote effectiveness and innovation, 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;

''(7) the acquisition or hiring of school security equipment, technologies, personnel, or services such as—

''(A) metal detectors;

''(B) electronic locks;

''(C) surveillance cameras; and

''(D) other drug and violence prevention-related equipment and technologies;

''(8) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

''(9) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

''(10) other scientifically based research prevention programming that is—

''(A) effective in reducing the prevalence of alcohol, tobacco or drug use, and violence in youth;

''(B) effective in reducing the prevalence of risk factors predictive of increased alcohol, tobacco or drug use, and violence; or

''(C) effective in increasing the prevalence of protective factors, buffers, and assets predictive of decreased alcohol, tobacco or drug use and violence among youth;

''(11) the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives;

''(12) community involvement activities including community mobilization;

''(13) voluntary parental involvement and training;

''(14) the evaluation of any of the activities authorized under this subsection;

''(15) the provision of mental health counseling (by qualified counselors) to students for drug or violence related problems;

''(16) the provision of educational 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;

''(17) training teachers, pupil services personnel, and other appropriate school staff on effective strategies for dealing with disruptive students;

''(18) consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or inspecting a student's locker for guns, explosives, other weapons, or illegal drugs, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect; and

''(19) the conduct of a nationwide background check of each local educational agency employee (regardless of when hired) and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's or prospective employee's fitness—

''(A) to have responsibility for the safety or well-being of children;

''(B) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

''(C) to otherwise be employed at all by the local educational agency.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

''(2) SPECIAL RULE.—A local educational agency shall only use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of funds under this part by any local educational agency or school for the establishment or implementation of a school uniform policy so long as such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other scientifically based research information.

''SEC. 4117. EVALUATION AND REPORTING.

''(a) IMPACT EVALUATION.—

''(1) BIENNIAL EVALUATION.—The Secretary, in consultation with the National Advisory Committee, shall conduct an independent biennial evaluation of the impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools. The evaluation shall report on—

''(A) whether funded community and local education agency programs—

''(i) provided a thorough assessment of the substance abuse and violence problem;

''(ii) used objective data and the knowledge of a wide range of community members;

''(iii) developed measurable goals and objectives;

''(iv) implemented scientifically based research programs that have been shown to be effective and meet identified needs; and

''(v) conducted periodic program evaluations to assess progress made towards achieving program goals and objectives and whether they used evaluations to improve program goals, objectives and activities;

''(B) whether funded community and local education agency programs have been designed and implemented in a manner that specifically targets, if relevant to the program—

''(i) scientifically based research variables that are predictive of drug use or violence;

''(ii) risk factors that are predictive of an increased likelihood that young people will use drugs, alcohol or tobacco or engage in violence or drop out of school; or

''(iii) protective factors, buffers, or assets that are known to protect children and youth from exposure to risk, either by reducing the exposure to risk factors or by changing the way the young person responds to risk, and to increase the likelihood of positive youth development;

''(C) whether funded community and local education agency programs have appreciably reduced the level of drug, alcohol and tobacco use and school violence and the presence of firearms at schools; and

''(D) whether funded community and local educational agency programs have conducted effective parent involvement and voluntary training programs.

''(2) DATA COLLECTION.—The National Center for Education Statistics shall collect data, that is subject to independent review, to determine the incidence and prevalence of drug use and violence in elementary and secondary schools in the States. The collected data shall include incident reports by schools officials, anonymous student surveys, and anonymous teacher surveys.

''(3) BIENNIAL REPORT.—Not later than January 1, 2003, and every 2 years thereafter, the Secretary shall submit to the President and Congress a report on the findings of the evaluation conducted under paragraph (1) together with the data collected under paragraph (2) and data available from other sources on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use in elementary and secondary schools in the States. The Secretary shall include data submitted by the States pursuant to subsection (b)(2)(B).

''(b) STATE REPORT.—

''(1) IN GENERAL.—By December 1, 2002, and every 2 years thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

''(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness;

''(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112; and

''(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

''(2) SPECIAL RULE.—The report required by this subsection shall be—

''(A) in the form specified by the Secretary;

''(B) based on the State's ongoing evaluation activities, and shall include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

''(C) made readily available to the public.

''(c) LOCAL EDUCATIONAL AGENCY REPORT.—

''(1) IN GENERAL.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (b), including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

''(2) AVAILABILITY.—Information under paragraph (1) shall be made readily available to the public.

''(3) PROVISION OF DOCUMENTATION.—Not later than January 1 of each year that a State is required to report under subsection (b), the Secretary shall provide to the State education agency all of the necessary documentation required for compliance with this section.

''SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS.

''(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

''(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

''Subpart 2—National Programs

''SEC. 4121. FEDERAL ACTIVITIES.

''(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the post-secondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private entities and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

''(1) the development and demonstration of innovative strategies for the voluntary training of school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

''(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

''(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

''(4) the provision of information on violence prevention and education and school safety to the Department of Justice, for dissemination by the National Resource Center for Safe Schools as a national clearinghouse on violence and school safety information;

''(5) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

''(6) program evaluations that address issues not addressed under section 4117(a);

''(7) direct services to schools and school systems afflicted with especially severe drug and violence problems or to support crisis situations and appropriate response efforts;

''(8) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

''(9) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

''(10) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include administrative approaches, security services, conflict resolution, peer mediation, mentoring, the teaching of law and legal concepts, and other activities designed to stop violence;

''(11) the development of professional development programs necessary for teachers, other educators, and pupil services personnel to implement alternative education supports, services, and programs for chronically disruptive, drug-abusing, and violent students;

''(12) the development, establishment, or improvement of alternative education models, either established within a school or separate and apart from an existing school, that are designed to promote drug and violence prevention, reduce disruptive 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;

''(13) the implementation of innovative activities, such as community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

''(14) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

''(15) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

''(16) other activities that meet unmet national needs related to the purposes of this title.

''(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

''SEC. 4122. NATIONAL COORDINATOR PROGRAM.

''(a) IN GENERAL.—From amounts available to carry out this section under section 4004(3), the

Secretary shall provide for the establishment of a National Coordinator Program under which the Secretary shall award grants to local educational agencies for the hiring of drug prevention and school safety program coordinators.

''(b) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used by local educational agencies to recruit, hire, and train individuals to serve as drug prevention and school safety program coordinators in schools with significant drug and school safety problems. Such coordinators shall be responsible for developing, conducting, and analyzing assessments of drug and crime problems at their schools, and administering the safe and drug free grant program at such schools.

''SEC. 4123. SAFE AND DRUG FREE SCHOOLS AND COMMUNITIES ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established an advisory committee to be known as the 'Safe and Drug Free Schools and Communities Advisory Committee' (referred to in this section as the 'Advisory Committee') to—

''(A) consult with the Secretary under subsection (b);

''(B) coordinate Federal school- and community-based substance abuse and violence prevention programs and reduce duplicative research or services;

''(C) develop core data sets and evaluation protocols for safe and drug free school- and community-based programs;

''(D) provide technical assistance and training for safe and drug free school- and community-based programs;

''(E) provide for the diffusion of scientifically based research to safe and drug free school- and community-based programs; and

''(F) review other regulations and standards developed under this title.

''(2) COMPOSITION.—The Advisory Committee shall be composed of representatives from—

''(A) the Department of Education;

''(B) the Centers for Disease Control and Prevention;

''(C) the National Institute on Drug Abuse;

''(D) the National Institute on Alcoholism and Alcohol Abuse;

''(E) the Center for Substance Abuse Prevention;

''(F) the Center for Mental Health Services;

''(G) the Office of Juvenile Justice and Delinquency Prevention;

''(H) the Office of National Drug Control Policy;

''(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.

''(b) PROGRAMS.—

''(1) IN GENERAL.—From amounts made available under section 4004(2) to carry out this subpart, the Secretary, in consultation with the Advisory Committee, shall carry out scientifically based research programs to strengthen the accountability and effectiveness of the State, Governor's, and national programs under this title.

''(2) GRANTS, CONTRACTS OR COOPERATIVE AGREEMENTS.—The Secretary shall carry out paragraph (1) directly or through grants, contracts, or cooperative agreements with public and private entities and individuals or through agreements with other Federal agencies.

''(3) COORDINATION.—The Secretary shall coordinate programs under this section with other appropriate Federal activities.

''(4) ACTIVITIES.—Activities that may be carried out under programs funded under this section may include—

''(A) the provision of technical assistance and training, in collaboration with other Federal agencies utilizing their expertise and national and regional training systems, for Governors, State educational agencies and local educational agencies to support high quality, effective programs that—

''(i) provide a thorough assessment of the substance abuse and violence problem;

''(ii) utilize objective data and the knowledge of a wide range of community members;

''(iii) develop measurable goals and objectives; and

''(iv) implement scientifically based research activities that have been shown to be effective and that meet identified needs;

''(B) the provision of technical assistance and training to foster program accountability;

''(C) the diffusion and dissemination of best practices and programs;

''(D) the development of core data sets and evaluation tools;

''(E) program evaluations;

''(F) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act; and

''(G) other activities that meet unmet needs related to the purposes of this title and that are undertaken in consultation with the Advisory Committee.

''SEC. 4124. HATE CRIME PREVENTION.

''(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4004(2) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

''(b) USE OF FUNDS.—

''(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

''(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

''(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

''(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

''(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

''(2) IN GENERAL.—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require.

''(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

''(A) a request for funds for the purposes described in this section;

''(B) a description of the schools and communities to be served by the grants; and

''(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

''(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

''(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

''(B) a description of the program to be developed or augmented by such Federal and matching funds;

''(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

''(D) procedures for the proper and efficient administration of such program; and

''(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

''(c) AWARD OF GRANTS.—

''(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

''(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

''(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

''(d) REPORTS.—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

''SEC. 4125. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

''(a) GRANTS AUTHORIZED.—

''(1) AUTHORITY.—The Secretary is authorized to award grants and contracts to elementary schools and secondary schools that work with experts to enable the elementary schools and secondary schools—

''(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children;

''(B) to provide educational programming to students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

''(C) to provide support services for students and school personnel for the purpose of developing and strengthening effective prevention and intervention strategies with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children; and

''(D) to develop and implement school system policies regarding appropriate, safe responses identification and referral procedures for students who are experiencing or witnessing domestic violence.

''(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section—

''(A) on a competitive basis; and

''(B) in a manner that ensures that such grants and contracts are equitably distributed throughout a State among elementary schools and secondary schools located in rural, urban, and suburban areas in the State.

''(3) POLICY DISSEMINATION.—The Secretary shall disseminate to elementary schools and secondary schools any Department of Education policy guidance regarding the prevention of domestic violence and the impact of experiencing or witnessing domestic violence on children.

''(b) USES OF FUNDS.—Funds provided under this section may be used for the following purposes:

''(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or witness or experience family violence, and the impact of such violence on the students.

''(2) To provide education programs for elementary school and secondary school students

that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

''(3) To develop and implement elementary school and secondary school system policies regarding appropriate, safe responses, identification and referral procedures for students who are experiencing or witnessing domestic violence and to develop and implement policies on reporting and referral procedures for these students.

''(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call, and who is an expert.

''(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships and witness domestic violence, and the impact of the violence described in this paragraph on the children.

''(6) To conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

''(c) CONFIDENTIALITY.—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to be awarded a grant or contract under this section for any fiscal year, an elementary school or secondary school, in consultation with an expert, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) describe the need for funds provided under the grant or contract and the plan for implementation of any of the activities described in subsection (b);

''(B) describe how the experts shall work in consultation and collaboration with the elementary school or secondary school;

''(C) provide measurable goals for and expected results from the use of the funds provided under the grant or contract; and

''(D) incorporate appropriate remuneration for collaborating partners.

''(e) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.

''(f) DEFINITIONS.—In this section:

''(1) DOMESTIC VIOLENCE.—The term 'domestic violence' has the meaning given that term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2)).

''(2) EXPERTS.—The term 'experts' means—

''(A) experts on domestic violence, sexual assault, and child abuse from the educational, legal, youth, mental health, substance abuse, and victim advocacy fields; and

''(B) State and local domestic violence coalitions and community-based youth organizations.

''(3) WITNESS DOMESTIC VIOLENCE.—

''(A) IN GENERAL.—The term 'witness domestic violence' means to witness—

''(i) an act of domestic violence that constitutes actual or attempted physical assault; or

''(ii) a threat or other action that places the victim in fear of domestic violence.

''(B) WITNESS.—In subparagraph (A), the term 'witness' means to—

''(i) directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

''(ii) be within earshot of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

''SEC. 4126. SUICIDE PREVENTION PROGRAMS.

''(a) GRANTS AUTHORIZED.—

''(1) AUTHORITY.—The Secretary is authorized to award grants and contracts to elementary schools and secondary schools for the purpose of—

''(A) developing and implementing suicide prevention programs; and

''(B) to provide training to school administrators, faculty, and staff, with respect to identifying the warning signs of suicide and creating a plan of action for helping those at risk.

''(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section—

''(A) on a competitive basis;

''(B) in a manner that complies with the requirements under subsection (c) of section 520E of the Public Health Service Act; and

''(C) in a manner that ensures that such grants and contracts are equitably distributed throughout a State among elementary schools and secondary schools located in rural, urban, and suburban areas in the State.

''(3) POLICY DISSEMINATION.—The Secretary shall disseminate to elementary schools and secondary schools any Department of Education policy guidance regarding the prevention of suicide.

''(b) USES OF FUNDS.—Funds provided under this section may be used for the following purposes:

''(1) To provide training for elementary school and secondary school administrators, faculty, and staff with respect to identifying the warning signs of suicide and creating a plan of action for helping those at risk.

''(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

''(3) To conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

''(c) CONFIDENTIALITY.—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to be awarded a grant or contract under this section for any fiscal year, an elementary school or secondary school shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) describe the need for funds provided under the grant or contract and the plan for implementation of any of the activities described in subsection (b);

''(B) provide measurable goals for and expected results from the use of the funds provided under the grant or contract; and

''(C) incorporate appropriate remuneration for collaborating partners.

''(e) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.

''SEC. 4127. GRANTS FOR THE INTEGRATION OF SCHOOLS AND MENTAL HEALTH SYSTEMS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts, or cooperative agreements to State educational agencies, local educational agencies, or Indian tribes, for the purpose of increasing student access to quality mental health care by developing innovative programs to link local school systems with the local mental health system.

''(b) DURATION.—With respect to a grant, contract, or cooperative agreement awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years.

''(c) INTERAGENCY AGREEMENTS.—

''(1) DESIGNATION OF LEAD AGENCY.—The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to direct the establishment of an interagency agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local 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 (e) 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 of the services; and

''(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.

''(d) 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 may reasonably require.

''(2) CONTENT.—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 the 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 to students;

''(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 must supplement and 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; or

''(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 to carry out this section, $50,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 through 2005.

''Subpart 3—General Provisions

''SEC. 4131. DEFINITIONS.

''In this part:

''(1) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

''(2) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

''(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

''(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

''(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

''(3) HATE CRIME.—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

''(4) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(5) OBJECTIVELY MEASURABLE GOALS.—The term 'objectively measurable goals' means prevention programming goals defined through use of quantitative epidemiological data measuring the prevalence of alcohol, tobacco, and other drug use, violence, and the prevalence of risk and protective factors predictive of these behaviors, collected through a variety of methods and sources known to provide high quality data.

''(6) PROTECTIVE FACTOR, BUFFER, OR ASSET.—The terms 'protective factor', 'buffer', and 'asset' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illicit drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

''(7) RISK FACTOR.—The term 'risk factor' means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illicit drug use, as well as violent behavior, by youth in the school and community.

''(8) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

''(9) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, administrators, counselors, social workers, psychologists, therapists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

''SEC. 4132. MATERIALS.

''(a) 'ILLEGAL AND HARMFUL' MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is illegal and harmful.

''(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

''SEC. 4133. PROHIBITED USES OF FUNDS.

''No funds under this part may be used for—

''(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

''(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.

''SEC. 4134. QUALITY RATING.

''(a) IN GENERAL.—The chief executive officer of each State, or in the case of a State in which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for education activities, such individual, entity, or agency, is authorized and encouraged—

''(1) to establish a standard of quality for drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools in the State in accordance with subsection (b); and

''(2) to identify and designate, upon application by a public elementary school or secondary school, any such school that achieves such standard as a quality program school.

''(b) CRITERIA.—The standard referred to in subsection (a) shall address, at a minimum—

''(1) a comparison of the rate of illegal use of drugs, alcohol, and tobacco by students enrolled in the school for a period of time to be determined by the chief executive officer of the State;

''(2) the rate of suspensions or expulsions of students enrolled in the school for drug, alcohol, or tobacco-related offenses;

''(3) the effectiveness of the drug, alcohol, or tobacco prevention program as proven by research;

''(4) the involvement of parents and community members in the design of the drug, alcohol, and tobacco prevention program; and

''(5) the extent of review of existing community drug, alcohol, and tobacco prevention programs before implementation of the public school program.

''(c) REQUEST FOR QUALITY PROGRAM SCHOOL DESIGNATION.—A school that wishes to receive a quality program school designation shall submit a request and documentation of compliance with this section to the chief executive officer of the State or the individual, entity, or agency described in subsection (a), as the case may be.

''(d) PUBLIC NOTIFICATION.—Not less than once a year, the chief executive officer of each State or the individual, entity, or agency described in subsection (a), as the case may be, shall make available to the public a list of the names of each public school in the State that has received a quality program school designation in accordance with this section.

''Subpart 4—State Grants To Encourage Community Service by Expelled and Suspended Students

''SEC. 4141. AUTHORIZATION OF APPROPRIATIONS.

''In addition to amounts authorized to be appropriated under section 4004, there are authorized to be appropriated $50,000,000 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.

''SEC. 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 1124A 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) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under 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.''.

SEC. 402. GUN-FREE REQUIREMENTS.

Title IV (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

''PART B—GUN POSSESSION

''SEC. 4201. GUN-FREE REQUIREMENTS.

''(a) SHORT TITLE.—This part may be cited as the ''Gun-Free Schools Act of 1994''.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—Each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school, or to have possessed a weapon at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

''(2) CONSTRUCTION.—Nothing in this part shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

''(3) DEFINITION.—For the purpose of this section, the term 'weapon' means a firearm as such

term is defined in section 921(a) of title 18, United States Code.

''(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

''(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

''(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

''(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

''(A) the name of the school concerned;

''(B) the number of students expelled from such school; and

''(C) the type of weapons concerned.

''(e) REPORTING.—Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

''(f) DEFINITION.—In this section, the term 'school' means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

''(g) EXCEPTION.—Nothing in this section shall apply to a weapon that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

''SEC. 4202. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

''(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to a school, or is found to have possessed a weapon at a school, served by such agency.

''(b) DEFINITIONS.—For the purpose of this section:

''(1) SCHOOL.—The term 'school' has the meaning given to such term by section 921(a) of title 18, United States Code.

''(2) WEAPON.—The term 'weapon' has the meaning given such term in section 4101(b)(3).''.

SEC. 403. SCHOOL SAFETY AND VIOLENCE PREVENTION.

(a) IN GENERAL.—Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

''PART C—SCHOOL SAFETY AND VIOLENCE PREVENTION

''SEC. 4301. SCHOOL SAFETY AND VIOLENCE PREVENTION.

''Subject to this title, and subpart 4 of part B of title V, funds made available under this title and such subpart may be used for—

''(1) training, including in-service training, for school personnel (including custodians and bus drivers), with respect to—

''(A) the identification of potential threats, such as illegal weapons and explosive devices;

''(B) crisis preparedness and intervention procedures; and

''(C) emergency response;

''(2) training for parents, teachers, school personnel and other interested members of the community regarding the identification and responses to early warning signs of troubled and violent youth;

''(3) innovative scientifically based research delinquency and violence prevention programs, including—

''(A) school antiviolence programs; and

''(B) mentoring programs;

''(4) comprehensive security assessments;

''(5) in accordance with section 4116(c), the purchase of school security equipment and technologies such as—

''(A) metal detectors;

''(B) electronic locks; and

''(C) surveillance cameras;

''(6) collaborative efforts with community-based organizations, including faith-based organizations, statewide consortia, and law enforcement agencies, that have demonstrated expertise in providing effective, scientifically based research violence prevention and intervention programs for school-aged children;

''(7) providing assistance to States, local education agencies, or schools to establish school uniform policies;

''(8) school resource officers, including community policing officers; and

''(9) other innovative, local responses that are consistent with reducing incidents of school violence and improving the educational atmosphere of the classroom.

''SEC. 4302. SCHOOL UNIFORMS.

''(a) CONSTRUCTION.—Nothing in this part shall be construed to prohibit any State, local education agency, or school from establishing a school uniform policy.

''(b) FUNDING.—Subject to this title and subpart 4 of part B of title V, funds provided under this title and such subpart may be used for establishing a uniform policy.

''SEC. 4303. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

''(a) NONAPPLICATION OF PROVISIONS.—This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

''(b) DISCIPLINARY RECORDS.—In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after the date of enactment of this part, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

''SEC. 4304. CONFIDENTIAL REPORTING OF INDIVIDUALS SUSPECTED OF IMMINENT SCHOOL VIOLENCE.

''Subject to the provisions of this title and subpart 4 of part 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 respond to 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) threatening to do harm to themselves or others; and

''(5) further State effort 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 at the Sandia National Laboratories, in partnership with the National Law Enforcement and Corrections Technology Center—Southeast and the National Center for Rural Law Enforcement in Little Rock, Arkansas, of a 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 a resource to local educational agencies for school security assessments, security technology development, evaluation and implementation, and technical assistance relating to improving school security. The center will also conduct and publish school violence research, coalesce data from victim communities, and monitor and report on schools that implement school security strategies.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $4,750,000 for each of the fiscal years 2002, 2003, and 2004, of which $2,000,000 shall be for Sandia National Laboratories in each fiscal year, $2,000,000 shall be for the National Center for Rural Law Enforcement in each fiscal year, and $750,000 shall be for the National Law Enforcement and Corrections Technology Center—Southeast in each fiscal year.

''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 schools served by the 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).

''(b) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.

''(c) 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. 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 ENHANCEMENT

''SEC. 4401. SHORT TITLE.

''This part may be cited as the 'School Safety Enhancement Act of 2001'.

''SEC. 4402. FINDINGS.

''Congress makes 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 of violence.

''(2) Approximately 10 percent of all public schools reported at least 1 serious violent crime to a law enforcement agency over the course of the 1996–1997 school year.

''(3) 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.

''(4) 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.

''(5) The school violence incidents in several States across the Nation in 1998 and 1999 caused enormous damage to schools, families, and whole communities.

''(6) Because of escalating school violence, the children of the United States are increasingly afraid that they will be attacked or harmed at school.

''(7) 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 may establish the Center at an existing facility, if the facility has a history of performing two or more of the duties described in subsection (b). The Secretary of Education and the Attorney General shall jointly appoint a Director of the Center to oversee the operation of the Center.

''(b) DUTIES.—The Center shall carry out emergency response, anonymous student hotline, consultation, and information and outreach activities with respect to elementary and secondary school safety, including the following:

''(1) EMERGENCY RESPONSE.—The staff of the Center, and such temporary contract employees as the Director of the Center shall determine necessary, shall offer emergency assistance to local communities to respond to school safety crises. Such assistance shall include counseling for victims and the community, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety, prevent future incidents, and respond to future incidents.

''(2) ANONYMOUS STUDENT HOTLINE.—The Center shall establish a toll-free telephone number for students to report criminal activity, threats of criminal activity, and other high-risk behaviors such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. The Center shall relay the reports, without attribution, to local law enforcement or appropriate school hotlines. The Director of the Center shall work with the Attorney General to establish guidelines for Center staff to work with law enforcement around the Nation to relay information reported through the hotline.

''(3) CONSULTATION.—The Center shall establish a toll-free number for the public to contact staff of the Center for consultation regarding school safety. The Director of the Center shall hire administrative staff and individuals with expertise in enhancing school safety, including individuals with backgrounds in counseling and psychology, education, law enforcement and criminal justice, and community development to assist in the consultation.

''(4) INFORMATION AND OUTREACH.—The Center shall compile information about the best practices in school violence prevention, intervention, and crisis management, and shall serve as a clearinghouse for model school safety program information. The staff of the Center shall work to ensure local governments, school officials, parents, students, and law enforcement officials and agencies are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime. The staff of the Center shall give special attention to providing outreach to rural and impoverished communities.

''(c) 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 Secretary of Health and Human Services, and the Attorney General shall award grants, on a competitive basis, to help communities develop community-wide safety programs involving students, parents, educators, guidance counselors, psychologists, law enforcement officials or agencies, civic leaders, and other organizations serving the community.

''(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 students' awareness of warning signs of violent behavior;

''(4) promote students' responsibility to report the warning signs to appropriate persons;

''(5) promote conflict resolution and peer mediation programs;

''(6) increase the number of after-school 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. 405. AMENDMENTS TO THE NATIONAL CHILD PROTECTION ACT OF 1993.

Section 5(10) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(10)) is amended to read as follows:

''(10) the term 'qualified entity' means—

''(A) a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services; or

''(B) an elementary or secondary school.''.

SEC. 406. ENVIRONMENTAL TOBACCO SMOKE.

Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

''PART E—ENVIRONMENTAL TOBACCO SMOKE

''SEC. 4501. SHORT TITLE.

''This part may be cited as the 'Pro-Children Act of 2001'.

''SEC. 4502. DEFINITIONS.

''As used in this part:

''(1) CHILDREN.—The term 'children' means individuals who have not attained the age of 18.

''(2) CHILDREN'S SERVICES.—The term 'children's services' means the provision on a routine or regular basis of health, day care, education, or library services—

''(A) that are funded, after the date of enactment of the Better Education for Students and Teachers Act, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

''(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act); or

''(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966; or

''(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any enforcement action carried out under this part,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966.

''(3) INDOOR FACILITY.—The term 'indoor facility' means a building that is enclosed.

''(4) PERSON.—The term 'person' means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''SEC. 4503. NONSMOKING POLICY FOR CHILDREN'S SERVICES.

''(a) PROHIBITION.—After the date of enactment of the Better Education for Students and Teachers Act, no person receiving funds pursuant to this Act, shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

''(b) ADDITIONAL PROHIBITION.—

''(1) IN GENERAL.—After the date of enactment of the Better Education for Students and Teachers Act, no person receiving funds pursuant to this Act, shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood development (Head Start) services.

''(2) EXCEPTION.—Paragraph (1) shall not apply to—

''(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

''(B) any private residence.

''(c) FEDERAL AGENCIES.—

''(1) KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION OR LIBRARY SERVICES.—After the date of enactment of the Better Education for Students and Teachers Act, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or

secondary education or library services to children.

''(2) HEALTH OR DAY CARE OR EARLY CHILDHOOD DEVELOPMENT SERVICES.—

''(A) IN GENERAL.—After the date of enactment of the Better Education for Students and Teachers Act, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

''(ii) any private residence.

''(3) APPLICATION OF PROVISIONS.—The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

''(d) NOTICE.—The prohibitions in subsections (a) through (c) shall be published in a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after the date of enactment of the Better Education for Students and Teachers Act, whichever occurs first.

''(e) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty assessed under this section, the total amount shall not exceed fifty percent of the amount of Federal funds received under the Better Education for Students and Teachers Act by such person for the fiscal year in which the continuing violation occurred. For the purpose of the prohibition in subsection (c), the term 'person', as used in this paragraph, shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

''(2) ADMINISTRATIVE PROCEEDING.—A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing, which shall be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

''(3) CIRCUMSTANCES AFFECTING PENALTY OR ORDER.—In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

''(A) the nature, circumstances, extent, and gravity of the violation;

''(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

''(C) such other matters as justice may require.

''(4) MODIFICATION.—The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

''(5) PETITION FOR REVIEW.—Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

''(6) FAILURE TO COMPLY.—If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

''SEC. 4504. PREEMPTION.

''Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.''.

SEC. 407. GRANTS TO REDUCE ALCOHOL ABUSE.

Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

''PART F—GRANTS TO REDUCE ALCOHOL ABUSE

''SEC. 4601. GRANTS TO REDUCE ALCOHOL ABUSE.

''(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, shall award grants, on a competitive basis, to local educational agencies to enable such agencies to develop and implement innovative and effective programs to reduce alcohol abuse in secondary schools.

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a local educational agency shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of the activities to be carried out under the grant;

''(2) an assurance that such activities will include 1 or more of the proven strategies for reducing underage alcohol abuse as determined by the Substance Abuse and Mental Health Services Administration;

''(3) an explanation of how activities to be carried under the grant that are not described in paragraph (2) will be effective in reducing underage alcohol abuse, including references to the past effectiveness of such activities;

''(4) an assurance that the applicant will submit to the Secretary an annual report concerning the effectiveness of the programs and activities funded under the grant; and

''(5) such other information as the Secretary determines appropriate.

''(c) STREAMLINING OF PROCESS FOR LOW-INCOME AND RURAL LEAS.—The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop procedures to make the application process for grants under this section more user-friendly, particularly for low-income and rural local educational agencies.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—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 in each of the 6 subsequent fiscal years.

''(2) RESERVATIONS.—

''(A) SAMHSA.—The Secretary shall reserve 20 percent of the amount appropriated for each fiscal year under paragraph (1) to enable the Administrator of the Substance Abuse and Mental Health Services Administration to provide alcohol abuse resources and start-up assistance to local educational agencies receiving grants under this section.

''(B) LOW-INCOME AND RURAL AREAS.—The Secretary shall reserve 25 percent of the amount appropriated for each fiscal year under paragraph (1) to award grants under this section to low-income and rural local educational agencies.''.

SEC. 408. MENTORING PROGRAMS.

(a) IN GENERAL.—Title IV of Elementary and Secondary Education Act of 1965 is further amended by adding at the end the following:

''PART G—MENTORING PROGRAMS

''SEC. 4701. DEFINITIONS.

''In this part:

''(1) CHILD WITH GREATEST NEED.—The term 'child with greatest need' means a child at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or that has lack of strong positive adult role models.

''(2) MENTOR.—The term 'mentor' means an individual who works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

''(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''SEC. 4702. PURPOSES.

''The purposes of this part are to make assistance available to promote mentoring programs for children with greatest need—

''(1) to assist such children in receiving support and guidance from a caring adult;

''(2) to improve the academic performance of such children;

''(3) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

''(4) to reduce the dropout rate of such children; and

''(5) to reduce juvenile delinquency and involvement in gangs by such children.

''SEC. 4703. GRANT PROGRAM.

''(a) IN GENERAL.—In accordance with this section, the Secretary may make grants to eligible entities to assist such entities in establishing and supporting mentoring programs and activities that—

''(1) are designed to link children with greatest need (particularly such children living in rural areas, high crime areas, or troubled home environments, or such children experiencing educational failure) with responsible adults, who—

''(A) have received training and support in mentoring;

''(B) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

''(C) are interested in working with youth; and

''(2) are intended to achieve 1 or more of the following goals:

''(A) Provide general guidance to children with greatest need.

''(B) Promote personal and social responsibility among children with greatest need.

''(C) Increase participation by children with greatest need in, and enhance their ability to benefit from, elementary and secondary education.

''(D) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity by children with greatest need.

''(E) Encourage children with greatest need to participate in community service and community activities.

''(F) Encourage children with greatest need to set goals for themselves or to plan for their futures, including encouraging such children to make graduation from secondary school a goal and to make plans for postsecondary education or training.

''(G) Discourage involvement of children with greatest need in gangs.

''(b) ELIGIBLE ENTITIES.—Each of the following is an entity eligible to receive a grant under subsection (a):

''(1) A local educational agency.

''(2) A nonprofit, community-based organization.

''(3) A partnership between an agency referred to in paragraph (1) and an organization referred to in paragraph (2).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Each entity receiving a grant under this section shall use the grant funds for activities that establish or implement a mentoring program, including—

''(A) hiring of mentoring coordinators and support staff;

''(B) providing for the professional development of mentoring coordinators and support staff;

''(C) recruitment, screening, and training of adult mentors;

''(D) reimbursement of schools, if appropriate, for the use of school materials or supplies in carrying out the program;

''(E) dissemination of outreach materials;

''(F) evaluation of the program using scientifically based methods; and

''(G) such other activities as the Secretary may reasonably prescribe by rule.

''(2) PROHIBITED USES.—Notwithstanding paragraph (1), an entity receiving a grant under this section may not use the grant funds—

''(A) to directly compensate mentors;

''(B) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the entity's operations;

''(C) to support litigation of any kind; or

''(D) for any other purpose reasonably prohibited by the Secretary by rule.

''(d) TERM OF GRANT.—Each grant made under this section shall be available for expenditure for a period of 3 years.

''(e) APPLICATION.—Each eligible entity seeking a grant under this section shall submit to the Secretary an application that includes—

''(1) a description of the mentoring plan the applicant proposes to carry out with such grant;

''(2) information on the children expected to be served by the mentoring program for which such grant is sought;

''(3) a description of the mechanism that 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 mentor so many children 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 one-on-one relationship, where practicable) with each mentored child;

''(5) an assurance that mentoring programs will provide children with a variety of experiences and support, including—

''(A) emotional support;

''(B) academic assistance; and

''(C) exposure to experiences that children might not otherwise encounter on their own;

''(6) an assurance that mentoring programs will be monitored to ensure that each child assigned a mentor benefits from 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 and to its procedure for matching children with mentors.

''(f) SELECTION.—

''(1) COMPETITIVE BASIS.—In accordance with this subsection, the Secretary shall select grant recipients from among qualified applicants on a competitive basis.

''(2) 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.

''(3) 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 degree to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the applicant's mentoring program;

''(iii) the degree to which the applicant can ensure that mentors will develop longstanding 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 its mentoring 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 and distribute to program 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 Secretary and Congress containing 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)—

''(1) to 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 (2).

(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

the Elementary and Secondary Education Act of 1965, as added by subsection (a), for fiscal year 2002.

SEC. 409. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF DILAPIDATED OR ENVIRONMENTALLY UNHEALTHY PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN AND THE HEALTHY AND HIGH PERFORMANCE SCHOOLS PROGRAM.

Title IV, as amended by this title, is further amended by adding at the end the following:

"PART H—MISCELLANEOUS PROVISIONS

"SEC. 4801. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF DILAPIDATED OR ENVIRONMENTALLY UNHEALTHY PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN.

''(a) STUDY AUTHORIZED.—The Secretary of Education, in conjunction with the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy, shall conduct a study on the health and learning impacts of dilapidated or environmentally unhealthy public school buildings on children that have attended or are attending such schools.

''(b) STUDY SPECIFICATIONS.—The following information shall be included in the study conducted under subsection (a):

''(1) The characteristics of public elementary and secondary school buildings that contribute to unhealthy school environments, including the prevalence of such characteristics in public elementary and secondary school buildings. Such characteristics may include school buildings that—

''(A) have been built on contaminated property;

''(B) have poor in-door air quality;

''(C) have high occurrences of mold;

''(D) have ineffective ventilation, heating or cooling systems, inadequate lighting, drinking water that does not meet health-based standards, infestations of rodents, insects, or other animals that may carry or cause disease;

''(E) have dust or debris from crumbling structures or construction efforts; and

''(F) have been subjected to use of pesticides, insecticides, chemicals, or cleaners, lead-based paint, or asbestos or have radon or other hazardous substances prohibited by Federal or State codes.

''(2) The health and learning impacts of dilapidated or environmental unhealthy public school buildings on students that are attending or that have attended a school described in subsection (a), including information on the rates of such impacts where available. Such health impacts may include higher than expected incidence of injury, infectious disease, or chronic disease, such as asthma, allergies, elevated blood lead levels, behavioral disorders, or ultimately cancer. Such learning impacts may include lower levels of student achievement, inability of students to concentrate, and other educational indicators.

''(3) Recommendations to Congress on how to assist schools that are out of compliance with Federal or State codes or in need of assistance to achieve healthy and safe school environments, how to improve the overall monitoring of public school building health, and a cost estimate of bringing all public schools up to such standards.

''(4) The identification of the existing gaps in information regarding the health of public elementary and secondary school buildings and the health and learning impacts on students that attend dilapidated or environmentally unhealthy public schools, including recommendations for obtaining such information.

''(5) The capacity (such as the district bonded indebtedness or the indebtedness authorized by the district electorate and payable from the general property taxes levied by the district) of public schools that are dilapidated or environmentally 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 COMPLETION.—The study under subsection (a) shall be completed by the earlier of—

''(1) not later than 18 months after the date of enactment of this Act; or

''(2) not later than December 31, 2002.

''(d) PUBLIC DISSEMINATION.—The Secretary shall make the study under this section 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 high performance elementary school and secondary school buildings that are energy-efficient, and environmentally healthy.

''(c) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

''(1) PROGRAM.—There is established in the Department of Education the High Performance Schools Program (in this section referred to as the 'Program').

''(2) 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) SUBGRANTS.—

''(i) IN GENERAL.—A State educational agency receiving a grant under this section shall use the grant funds made available under subsection (d)(1)(A) to award subgrants to local educational agencies to permit such local educational agencies to carry out the activities described in paragraph (4).

''(ii) LIMITATION.—A State educational agency shall award subgrants under clause (i) to the neediest local educational agencies as determined by the State and that have made a commitment to use the subgrant funds to develop healthy, high performance school buildings in accordance with the plan developed and approved pursuant to clause (iii)(I).

''(iii) IMPLEMENTATION.—

''(I) PLANS.—A State educational agency shall award subgrants under subparagraph (A) only to local educational agencies that, in consultation with the State educational agency and State offices with responsibilities relating to energy and health, have developed plans that the State educational agency determines to be feasible and appropriate in order to achieve the purposes for which such subgrants are made.

''(II) SUPPLEMENTING GRANT FUNDS.—The State educational agency shall encourage qualifying local educational agencies to supplement their subgrant funds with funds from other sources in the implementation of their plans.

''(B) ADMINISTRATION.—A State educational agency receiving a grant under this section shall use the grant funds made available under subsection (d)(1)(B)—

''(i) to evaluate compliance by local educational agencies with the requirements of this section;

''(ii) to distribute information and materials on healthy, high performance school buildings for both new and existing facilities;

''(iii) to organize and conduct programs for school board members, school district personnel, and others to disseminate information on healthy, high performance school buildings;

''(iv) to obtain technical services and assistance in planning and designing healthy, high performance school buildings; and

''(v) to collect and monitor information pertaining to the healthy, high performance school building projects funded under this section.

''(4) LOCAL USE OF FUNDS.—

''(A) IN GENERAL.—A subgrant received by a local educational agency under paragraph (3)(A) shall be used for renovation projects that—

''(i) achieve energy-efficiency performance that reduces energy use to at least 30 percent below that of a school constructed in compliance with standards prescribed in Chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results; and

''(ii) achieve environmentally healthy schools in compliance with Federal and State codes intended to achieve healthy and safe school environments.

''(B) EXISTING BUILDINGS.—A local educational agency receiving a subgrant under paragraph (3)(A) for renovation of existing school buildings shall use such subgrant funds—

''(i) 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; and

''(ii) to help bring schools into compliance with Federal and State health and safety standards.

''(d) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—A State receiving a grant under this section shall use—

''(A) not less than 70 percent of such grant funds to carry out subsection (c)(3)(A); and

''(B) not less than 15 percent of such grant funds to carry out subsection (c)(3)(B).

''(2) RESERVATION.—The Secretary may reserve up to 1 percent per year from amounts appropriated under subsection (f) to assist State educational agencies in coordinating and implementing the Program.

''(e) REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Secretary shall conduct a biennial review of State actions implementing this section, and shall report to Congress on the results of such reviews.

''(2) REVIEWS.—In conducting such reviews, the Secretary shall assess the effectiveness of the calculation procedures used by State educational agencies in establishing eligibility of local educational agencies for subgrants under this section, and may assess other aspects of the Program to determine whether the aspects have been effectively implemented.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $50,000,000 for fiscal year 2002; and

''(2) such sums as may be necessary for each of fiscal years 2003 through 2011.

''(g) DEFINITIONS.—In this section:

''(1) HEALTHY, HIGH PERFORMANCE SCHOOL BUILDING.—The term 'healthy, high performance school building' means a school building which, in its design, construction, operation, and maintenance, maximizes use of renewable energy and energy-efficient practices, is cost-effective, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, and protects and conserves water.

''(2) RENEWABLE ENERGY.—The term 'renewable energy' means energy produced by solar, wind, geothermal, hydroelectric, or biomass power.

''(h) LIMITATIONS.—No funds received under this section may be used for—

''(1) payment of maintenance of costs in connection with any projects constructed in whole

or in part with Federal funds provided under this Act;

''(2) the construction of new school facilities;

''(3) stadiums or other 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. 691. 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. The 3 categories are deafness, blindness, and severe disabilities.

''(3) There are 38 States in which teacher training programs are not offered or maintained for 1 or more of the 3 categories of low-incidence disabilities.

''(4) 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. 692. 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. 693. 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, such as providing educational materials or other information necessary in order to aid in such teacher training.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 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

''Subpart 1—Charter Schools

''SEC. 5111. PURPOSE.

''It is the purpose of this subpart to increase national understanding of the charter schools model by—

''(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

''(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

''(3) expanding the number of high-quality charter schools available to students across the Nation.

''SEC. 5112. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 5113 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

''(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5113, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5113(c).

''(c) PROGRAM PERIODS.—

''(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart shall be awarded for a period of not more than 3 years.

''(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

''(A) not more than 18 months for planning and program design;

''(B) not more than 2 years for the initial implementation of a charter school; and

''(C) not more than 2 years to carry out dissemination activities described in section 5114(f)(6)(B).

''(d) LIMITATION.—A charter school may not receive—

''(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

''(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

''(e) PRIORITY TREATMENT.—

''(1) IN GENERAL.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 5121, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

''(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

''(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

''(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.

''(B) The State—

''(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

''(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

''(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

''(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this subpart to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

''SEC. 5113. APPLICATIONS.

''(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

''(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

''(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

''(2) describe how the State educational agency—

''(A) will inform each charter school in the State regarding—

''(i) Federal funds that the charter school is eligible to receive; and

''(ii) Federal programs in which the charter school may participate;

''(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

''(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

''(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

''(A) a description of the educational program to be implemented by the proposed charter school, including—

''(i) how the program will enable all students to meet challenging State student performance standards;

''(ii) the grade levels or ages of children to be served; and

''(iii) the curriculum and instructional practices to be used;

''(B) a description of how the charter school will be managed;

''(C) a description of—

''(i) the objectives of the charter school; and

''(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

''(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

''(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

''(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

''(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

''(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

''(I) a description of how students in the community will be—

''(i) informed about the charter school; and

''(ii) given an equal opportunity to attend the charter school;

''(J) an assurance that the eligible applicant will annually provide the Secretary and the

State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

''(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

''(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

''(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 5112(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

''(N) such other information and assurances as the Secretary and the State educational agency may require.

''(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 5112(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

''(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

''(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking 'and the State educational agency' each place such term appears; and

''(2) assurances that the State educational agency—

''(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

''(B) will assist each subgrantee in the State in receiving a waiver under section 5114(e).

''SEC. 5114. ADMINISTRATION.

''(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 5113(b), after taking into consideration such factors as—

''(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

''(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

''(3) the ambitiousness of the objectives for the State charter school grant program;

''(4) the quality of the strategy for assessing achievement of those objectives;

''(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

''(6) the number of high quality charter schools created under this subpart in the State; and

''(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 5112(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

''(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 5113(c), after taking into consideration such factors as—

''(1) the quality of the proposed curriculum and instructional practices;

''(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

''(3) the extent of community support for the application;

''(4) the ambitiousness of the objectives for the charter school;

''(5) the quality of the strategy for assessing achievement of those objectives;

''(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

''(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 5112(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

''(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

''(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this subpart, shall award subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

''(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

''(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

''(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 5120(1), if—

''(1) the waiver is requested in an approved application under this subpart; and

''(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

''(f) USE OF FUNDS.—

''(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

''(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

''(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

(A) post-award planning and design of the educational program, which may include—

''(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

''(ii) professional development of teachers and other staff who will work in the charter school; and

''(B) initial implementation of the charter school, which may include—

''(i) informing the community about the school;

''(ii) acquiring necessary equipment and educational materials and supplies;

''(iii) acquiring or developing curriculum materials; and

''(iv) other initial operational costs that cannot be met from State or local sources.

''(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

''(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

''(6) DISSEMINATION.—

''(A) IN GENERAL.—A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

''(i) substantial progress in improving student achievement;

''(ii) high levels of parent satisfaction; and

''(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

''(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

''(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

''(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

''(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

''(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

''(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

''(1) the eligibility of the school to receive any other Federal, State, or local aid; or

''(2) the amount of such aid.

''SEC. 5115. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

''(1) To provide charter schools, either directly or through State educational agencies, with—

''(A) information regarding—

''(i) Federal funds that charter schools are eligible to receive; and

''(ii) other Federal programs in which charter schools may participate; and

''(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

''(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

''(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

''(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

''(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

''(4) To provide—

''(A) information to applicants for assistance under this subpart;

''(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5113;

''(C) assistance in the planning and startup of charter schools;

''(D) training and technical assistance to existing charter schools; and

''(E) for the dissemination to other public schools of best or promising practices in charter schools.

''(5) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

''SEC. 5116. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

''(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

''(b) ADJUSTMENT AND LATE OPENINGS.—

''(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

''(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

''SEC. 5117. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

''To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

''SEC. 5118. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

''SEC. 5119. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

''SEC. 5120. DEFINITIONS.

''In this subpart:

''(1) CHARTER SCHOOL.—The term 'charter school' means a public school that—

''(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

''(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

''(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

''(D) provides a program of elementary or secondary education, or both;

''(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

''(F) does not charge tuition;

''(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

''(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

''(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

''(J) meets all applicable Federal, State, and local health and safety requirements;

''(K) operates in accordance with State law; and

''(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

''(2) DEVELOPER.—The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

''(3) ELIGIBLE APPLICANT.—The term 'eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this subpart.

''(4) AUTHORIZED PUBLIC CHARTERING AGENCY.—The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

''SEC. 5121. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subpart, there are authorized to be appropriated $190,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''Subpart 2—Magnet Schools Assistance

''SEC. 5131. FINDINGS AND STATEMENT OF PURPOSE.

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

''(1) Magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation of our Nation's schools.

''(2) It is in the national interest to continue the Federal Government's support of school districts that are implementing court-ordered desegregation plans and school districts that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds.

''(3) Desegregation can help ensure that all students have equitable access to high-quality education that will prepare them to function well in a technologically oriented and highly competitive society comprised of people from many different racial and ethnic backgrounds.

''(4) It is in the national interest to desegregate and diversify those schools in our Nation that are racially, economically, linguistically, or ethnically segregated. Such segregation exists between minority and non-minority students as well as among students of different minority groups.

''(b) STATEMENT OF PURPOSE.—The purpose of this subpart is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

''(1) the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students which shall assist in the efforts of the United States to achieve voluntary desegregation in public schools;

''(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State and local content standards and challenging State and local student performance standards;

''(3) the development and design of innovative educational methods and practices;

''(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational, technological and career skills of students attending such schools;

''(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding is terminated; and

''(6) ensuring that all students enrolled in the magnet school program have equitable access to

high quality education that will enable the students to succeed academically and continue with post secondary education or productive employment.

"SEC. 5132. PROGRAM AUTHORIZED.

''The Secretary, in accordance with this subpart, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this subpart for magnet schools that are—

''(1) part of an approved desegregation plan; and

''(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 5133. DEFINITION.

''For the purpose of this subpart, the term 'magnet school' means a public elementary school or secondary school or a public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"SEC. 5134. ELIGIBILITY.

''A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this subpart to carry out the purposes of this subpart if such agency or consortium—

''(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary schools and secondary schools of such agency; or

''(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this subpart, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

"SEC. 5135. APPLICATIONS AND REQUIREMENTS.

''(a) APPLICATIONS.—An eligible local educational agency or consortium of such agencies desiring to receive assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

''(b) INFORMATION AND ASSURANCES.—Each such application shall include—

''(1) a description of—

''(A) how assistance made available under this subpart will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

''(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

''(C) how an applicant will continue the magnet school project after assistance under this subpart is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this subpart cannot be continued without the use of funds under this subpart;

''(D) how funds under this subpart will be used to implement services and activities that are consistent with other programs under this Act, and other Acts, as appropriate, in accordance with the provisions of section 5506; and

''(E) the criteria to be used in selecting students to attend the proposed magnet school project; and

''(2) assurances that the applicant will—

''(A) use funds under this subpart for the purposes specified in section 5131(b);

''(B) employ State certified or licensed teachers in the courses of instruction assisted under this subpart to teach or supervise others who are teaching the subject matter of the courses of instruction;

''(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

''(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

''(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

''(iii) designing or operating extracurricular activities for students;

''(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

''(E) give students residing in the local attendance area of the proposed magnet school project equitable consideration for placement in the project, consistent with desegregation guidelines and the capacity of the project to accommodate these students.

''(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

"SEC. 5136. PRIORITY.

''In approving applications under this subpart, the Secretary shall give priority to applicants that—

''(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

''(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

''(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

''(4) propose to implement innovative educational approaches that are consistent with the State and local content and student performance standards; and

''(5) propose activities, which may include professional development, that will build local capacity to operate the magnet school program once Federal assistance has terminated.

"SEC. 5137. USE OF FUNDS.

''(a) IN GENERAL.—Grant funds made available under this subpart may be used by an eligible local educational agency or consortium of such agencies—

''(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

''(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

''(3) for the payment, or subsidization of the compensation, of elementary school and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools;

''(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

''(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

''(B) further the purposes of this subpart;

''(5) to include professional development, which professional development shall build the agency's or consortium's capacity to operate the magnet school once Federal assistance has terminated;

''(6) to enable the local educational agency or consortium to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

''(7) to enable the local educational agency or consortium to have flexibility in designing magnet schools for students at all grades.

''(b) SPECIAL RULE.—Grant funds under this subpart may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational, technological and career skills.

"SEC. 5138. PROHIBITION.

''Grants under this subpart may not be used for transportation or any activity that does not augment academic improvement.

"SEC. 5139. LIMITATIONS.

''(a) DURATION OF AWARDS.—A grant under this subpart shall be awarded for a period that shall not exceed 3 fiscal years.

''(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning (professional development shall not be considered as planning for purposes of this subsection) not more than 50 percent of the funds received under this subpart for the first year of the project, 25 percent of such funds for the second such year, and 15 percent of such funds for the third such year.

''(c) AMOUNT.—No local educational agency or consortium awarded a grant under this subpart shall receive more than $4,000,000 under this subpart in any 1 fiscal year.

''(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this subpart not later than June 1 of the applicable fiscal year.

"SEC. 5140. INNOVATIVE PROGRAMS.

''(a) IN GENERAL.—From amounts reserved under subsection (d) for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 5134 to enable such agencies or consortia to conduct innovative programs that—

''(1) involve innovative strategies other than magnet schools, such as neighborhood or community model schools, to support desegregation of schools and to reduce achievement gaps;

''(2) assist in achieving systemic reforms and providing all students the opportunity to meet challenging State and local content standards and challenging State and local student performance standards; and

''(3) include innovative educational methods and practices that—

''(A) are organized around a special emphasis, theme, or concept; and

''(B) involve extensive parent and community involvement.

''(b) APPLICABILITY.—Sections 5131(b), 5132, 5135, 5136, and 5137, shall not apply to grants awarded under subsection (a).

''(c) APPLICATIONS.—Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

''(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve not more than 5 percent of the funds appropriated under section 5142(a) for each fiscal year to award grants under this section.

"SEC. 5141. EVALUATIONS.

''(a) RESERVATION.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 5142(a) for any fiscal year to carry out evaluations of projects assisted under this subpart and to provide technical assistance for grant recipients under this subpart.

''(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

''(1) how and the extent to which magnet school programs lead to educational quality and improvement;

''(2) the extent to which magnet school programs enhance student access to quality education;

''(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students;

''(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs; and

''(5) the extent to which magnet school programs continue once grant assistance under this subpart is terminated.

''(c) DISSEMINATION.—The Secretary shall collect and disseminate to the general public information on successful magnet school programs.

''SEC. 5142. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

''(a) AUTHORIZATION.—For the purpose of carrying out this subpart, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this subpart in the preceding fiscal year.

''Subpart 3—Public School Choice

''SEC. 5151. PUBLIC SCHOOL CHOICE.

''(a) ALLOTMENT TO STATE.—From the amount appropriated under subsection (e) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relation to the amount as the amount the State received under section 1122 for the preceding year bears to the amount received by all States under section 1122 for the preceding year.

''(b) STATE USE OF FUNDS.—Each State receiving an allotment under subsection (a) shall use 100 percent of the allotted funds for allocations to local educational agencies to enable the local educational agencies to carry out school improvement under section 1116(c).

''(c) PUBLIC SCHOOL CHOICE.—Subject to subsection (d), each local educational agency receiving an allocation under subsection (b), and each local educational agency that is within a State that receives funds under part A of title I (other than a local educational agency within a State that receives a minimum grant under section 1124(d) or 1124A(a)(1)(B) of such Act), shall provide all students enrolled in a school identified under section 1116(c) and served by the local educational agency with the option to transfer to another public school within the school district served by the local educational agency, including a public charter school, that has not been identified for school improvement under section 1116(c), unless such option to transfer is prohibited by State law or local law (which includes school board-approved local educational agency policy).

''(d) SPECIAL RULE.—If a local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide all students with the option to transfer to another public school within the school district served by the local educational agency in accordance with subsection (c), and gives notice (consistent with State and local law) to the parents of children affected that it is not possible to accommodate the transfer request of every student, then the local educational agency shall permit as many students as possible (who shall be selected by the local educational agency on an equitable basis) to transfer to a public school within such school district that has not been identified for school improvement under section 1116(c).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years.''.

''PART B—FLEXIBILITY

''Subpart 1—Education Flexibility Partnerships

''SEC. 5201. SHORT TITLE.

''This subpart may be cited as the 'Education Flexibility Partnership Act of 2001'.

''SEC. 5202. DEFINITIONS.

''In this subpart:

''(1) ELIGIBLE SCHOOL ATTENDANCE AREA; SCHOOL ATTENDANCE AREA.—The terms 'eligible school attendance area' and 'school attendance area' have the meanings given the terms in section 1113(a)(2).

''(2) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

''SEC. 5203. EDUCATION FLEXIBILITY PARTNERSHIP.

''(a) EDUCATIONAL FLEXIBILITY PROGRAM.—

''(1) PROGRAM AUTHORIZED.—

''(A) IN GENERAL.—The Secretary may carry out an educational flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more programs described in subsection (b), other than requirements described in subsection (c), for any local educational agency or school within the State.

''(B) DESIGNATION.—Each eligible State participating in the program described in subparagraph (A) shall be known as an 'Ed-Flex Partnership State'.

''(2) ELIGIBLE STATE.—For the purpose of this section the term 'eligible State' means a State that—

''(A) has—

''(i) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b), and for which local educational agencies in the State are producing the individual school performance profiles required by section 1116(a)(3); or

''(ii)(I) developed and implemented the content standards described in clause (i);

''(II) developed and implemented interim assessments; and

''(III) made substantial progress (as determined by the Secretary) toward developing and implementing the performance standards and final aligned assessments described in clause (i), and toward having local educational agencies in the State produce the profiles described in clause (i);

''(B) holds local educational agencies and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4), and for engaging in technical assistance and corrective actions consistent with section 1116, for the local educational agencies and schools that do not make adequate yearly progress as described in section 1111(b)(2); and

''(C) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

''(3) STATE APPLICATION.—

''(A) IN GENERAL.—Each State educational agency desiring to participate in the educational flexibility program under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

''(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

''(I) Federal statutory or regulatory requirements as described in paragraph (1)(A); and

''(II) State statutory or regulatory requirements relating to education;

''(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

''(iii) a description of clear educational objectives the State intends to meet under the educational flexibility plan;

''(iv) a description of how the educational flexibility plan is consistent with and will assist in implementing the State comprehensive reform plan or, if a State does not have a comprehensive reform plan, a description of how the educational flexibility plan is coordinated with activities described in section 1111(b);

''(v) a description of how the State educational agency will evaluate, consistent with the requirements of title I, the performance of students in the schools and local educational agencies affected by the waivers; and

''(vi) a description of how the State educational agency will meet the requirements of paragraph (8).

''(B) APPROVAL AND CONSIDERATIONS.—The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within the State in carrying out comprehensive educational reform, after considering—

''(i) the eligibility of the State as described in paragraph (2);

''(ii) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

''(iii) the ability of the educational flexibility plan to ensure accountability for the activities and goals described in such plan;

''(iv) the degree to which the State's objectives described in subparagraph (A)(iii)—

''(I) are clear and have the ability to be assessed; and

''(II) take into account the performance of local educational agencies or schools, and students, particularly those affected by waivers;

''(v) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

''(vi) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and for monitoring and evaluating the results of such waivers.

''(4) LOCAL APPLICATION.—

''(A) IN GENERAL.—Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement as described in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

''(i) indicate each Federal program affected and each statutory or regulatory requirement that will be waived;

''(ii) describe the purposes and overall expected results of waiving each such requirement;

''(iii) describe, for each school year, specific, measurable, educational goals for each local

educational agency or school affected by the proposed waiver, and for the students served by the local educational agency or school who are affected by the waiver;

''(iv) explain why the waiver will assist the local educational agency or school in reaching such goals; and

''(v) in the case of an application from a local educational agency, describe how the local educational agency will meet the requirements of paragraph (8).

''(B) EVALUATION OF APPLICATIONS.—A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (3)(A).

''(C) APPROVAL.—A State educational agency shall not approve an application for a waiver under this paragraph unless—

''(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively;

''(ii) the waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) will assist the local educational agency or school in reaching its educational goals, particularly goals with respect to school and student performance; and

''(iii) the State educational agency is satisfied that the underlying purposes of the statutory requirements of each program for which a waiver is granted will continue to be met.

''(D) TERMINATION.—The State educational agency shall annually review the performance of any local educational agency or school granted a waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) in accordance with the evaluation requirement described in paragraph (3)(A)(v), and shall terminate any waiver granted to the local educational agency or school if the State educational agency determines, after notice and an opportunity for a hearing, that the local educational agency or school's performance with respect to meeting the accountability requirement described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii)—

''(i) has been inadequate to justify continuation of such waiver; or

''(ii) has decreased for two consecutive years, unless the State educational agency determines that the decrease in performance was justified due to exceptional or uncontrollable circumstances.

''(5) OVERSIGHT AND REPORTING.—

''(A) OVERSIGHT.—Each State educational agency participating in the educational flexibility program under this section shall annually monitor the activities of local educational agencies and schools receiving waivers under this section.

''(B) STATE REPORTS.—

''(i) ANNUAL REPORTS.—The State educational agency shall submit to the Secretary an annual report on the results of such oversight and the impact of the waivers on school and student performance.

''(ii) PERFORMANCE DATA.—Not later than 2 years after the date a State is designated an Ed-Flex Partnership State, each such State shall include, as part of the State's annual report submitted under clause (i), data demonstrating the degree to which progress has been made toward meeting the State's educational objectives. The data, when applicable, shall include—

''(I) information on the total number of waivers granted for Federal and State statutory and regulatory requirements under this section, including the number of waivers granted for each type of waiver;

''(II) information describing the effect of the waivers on the implementation of State and local educational reforms pertaining to school and student performance;

''(III) information describing the relationship of the waivers to the performance of schools and students affected by the waivers; and

''(IV) an assurance from State program managers that the data reported under this section are reliable, complete, and accurate, as defined by the State, or a description of a plan for improving the reliability, completeness, and accuracy of such data as defined by the State.

''(C) SECRETARY'S REPORTS.—The Secretary, not later than 2 years after the date of enactment of the Education Flexibility Partnership Act of 1999 and annually thereafter, shall—

''(i) make each State report submitted under subparagraph (B) available to Congress and the public; and

''(ii) submit to Congress a report that summarizes the State reports and describes the effects that the educational flexibility program under this section had on the implementation of State and local educational reforms and on the performance of students affected by the waivers.

''(6) DURATION OF FEDERAL WAIVERS.—

''(A) IN GENERAL.—The Secretary shall not approve the application of a State educational agency under paragraph (3) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers—

''(i) has been effective in enabling such State or affected local educational agencies or schools to carry out their State or local reform plans and to continue to meet the accountability requirement described in paragraph (2)(C); and

''(ii) has improved student performance.

''(B) PERFORMANCE REVIEW.—Three years after the date a State is designated an Ed-Flex Partnership State, the Secretary shall review the performance of the State educational agency in granting waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and an opportunity for a hearing, that such agency's performance (including performance with respect to meeting the objectives described in paragraph (3)(A)(iii)) has been inadequate to justify continuation of such authority.

''(C) RENEWAL.—In deciding whether to extend a request for a State educational agency's authority to issue waivers under this section, the Secretary shall review the progress of the State educational agency to determine if the State educational agency—

''(i) has made progress toward achieving the objectives described in the application submitted pursuant to paragraph (3)(A)(iii); and

''(ii) demonstrates in the request that local educational agencies or schools affected by the waiver authority or waivers have made progress toward achieving the desired results described in the application submitted pursuant to paragraph (4)(A)(iii).

''(7) AUTHORITY TO ISSUE WAIVERS.—Notwithstanding any other provision of law, the Secretary is authorized to carry out the educational flexibility program under this section for each of the fiscal years 2002 through 2008.

''(8) PUBLIC NOTICE AND COMMENT.—Each State educational agency seeking waiver authority under this section and each local educational agency seeking a waiver under this section—

''(A) shall provide the public with adequate and efficient notice of the proposed waiver authority or waiver, consisting of a description of the agency's application for the proposed waiver authority or waiver in a widely read or distributed medium, including a description of any improved student performance that is expected to result from the waiver authority or waiver;

''(B) shall provide the opportunity for parents, educators, and all other interested members of the community to comment regarding the proposed waiver authority or waiver;

''(C) shall provide the opportunity described in subparagraph (B) in accordance with any applicable State law specifying how the comments may be received, and how the comments may be reviewed by any member of the public; and

''(D) shall submit the comments received with the agency's application to the Secretary or the State educational agency, as appropriate.

''(b) INCLUDED PROGRAMS.—The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements for programs carried out under the following provisions:

''(1) Title I (other than subsections (a) and (c) of section 1116, subpart 2 of part B, and part F).
''(2) Subparts 1, 2, and 3 of part A of title II.
''(3) Part C of title II.
''(4) Part C of title III.
''(5) Part A of title IV.
''(6) Subpart 4 of this part.
''(7) The Carl D. Perkins Vocational and Technical Education Act of 1998.

''(c) WAIVERS NOT AUTHORIZED.—The Secretary and the State educational agency may not waive under subsection (a)(1)(A) any statutory or regulatory requirement—

''(1) relating to—
''(A) maintenance of effort;
''(B) comparability of services;
''(C) equitable participation of students and professional staff in private schools;
''(D) parental participation and involvement;
''(E) distribution of funds to States or to local educational agencies;
''(F) serving eligible school attendance areas in rank order under section 1113(a)(3);
''(G) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that a State educational agency may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections (a) and (b);
''(H) use of Federal funds to supplement, not supplant, non-Federal funds; and
''(I) applicable civil rights requirements; and

''(2) unless the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met to the satisfaction of the Secretary.

''(d) TREATMENT OF EXISTING ED-FLEX PARTNERSHIP STATES.—

''(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), this section shall not apply to a State educational agency that has been granted waiver authority under the provisions of law described in paragraph (2) (as such provisions were in effect on the day before the date of enactment of the Better Education for Students and Teachers Act) for the duration of the waiver authority.

''(2) APPLICABLE PROVISIONS.—The provisions of law referred to in paragraph (1) are as follows:

''(A) Section 311(e) of the Goals 2000: Educate America Act (as such section was in effect on the day before the date of enactment of the Better Education for Students and Teachers Act).

''(B) The proviso referring to such section 311(e) under the heading 'EDUCATION REFORM' in the Department of Education Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–229).

''(3) SPECIAL RULE.—If a State educational agency granted waiver authority pursuant to the provisions of law described in subparagraph (A) or (B) of paragraph (2) applies to the Secretary for waiver authority under this section—

''(A) the Secretary shall review the progress of the State educational agency in achieving the objectives set forth in the application submitted pursuant to section 311(e) of the Goals 2000: Educate America Act (as such section was in effect on the day before the date of enactment of the Better Education for Students and Teachers Act); and

''(B) the Secretary shall administer the waiver authority granted under this section in accordance with the requirements of this section.

''(4) TECHNOLOGY.—In the case of a State educational agency granted waiver authority under the provisions of law described in subparagraph (A) or (B) of paragraph (2), the Secretary shall permit a State educational agency to expand, on or after the date of enactment of the Better Education for Students and Teachers Act, the waiver authority to include programs under part C of title II.

''(e) PUBLICATION.—A notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, including a description of the rationale the Secretary used to approve applications under subsection (a)(3)(B), shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

''Subpart 2—Rural Education Initiative

''SEC. 5221. SHORT TITLE.

''This subpart may be cited as the 'Rural Education Achievement Program'.

''SEC. 5222. PURPOSE.

''It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

''(1) lack the personnel and resources needed to compete for Federal competitive grants; and

''(2) receive formula allocations in amounts too small to be effective in meeting their intended purposes.

''SEC. 5223. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart—

''(1) 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 6 succeeding fiscal years.

''Chapter 1—Small, Rural School Achievement Program

''SEC. 5231. FORMULA GRANT PROGRAM AUTHORIZED.

''(a) ALTERNATIVE USES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to carry out activities described in section 1114, 1115, 1116, 2123, 4116, or 5331(b).

''(2) NOTIFICATION.—An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1) not later than a date that is established by the State educational agency for the notification.

''(b) ELIGIBILITY.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

''(1)(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, except that the Secretary may waive the School Locale Code requirement of this paragraph if the Secretary determines, based on certification provided by the local educational agency or the State educational agency on behalf of the local educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

''(c) APPLICABLE FUNDING.—In this section, the term 'applicable funding' means funds provided under each of titles II and IV, and subpart 4 of this part.

''(d) DISBURSAL.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State, or local education funds.

''(f) SPECIAL RULE.—References in Federal law to funds for the provisions of law set forth in subsection (c) may be considered to be references to funds for this section.

''(g) CONSTRUCTION.—Nothing in this chapter shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this section.

''SEC. 5232. COMPETITIVE GRANT PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities described in section 1114, 1115, 1116, 2123, 2213, 2306, 4116, or 5331(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, except that the Secretary may waive the School Locale Code requirement of this paragraph if the Secretary determines, based on certification provided by the local educational agency or the State educational agency on behalf of the local educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

''(c) AMOUNT.—

''(1) IN GENERAL.—The Secretary shall award a grant to a local educational agency under this section for a fiscal year in an amount equal to the amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 5231(c) for the fiscal year.

''(2) DETERMINATION.—The amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students that are in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the amount may not exceed $60,000.

''(3) CENSUS DETERMINATION.—

''(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall conduct a census not later than December 1 of each year to determine the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency.

''(B) SUBMISSION.—Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

''(4) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under paragraph (3) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received under this section if the agency had submitted accurate information under paragraph (3).

''(d) DISBURSAL.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

''(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other Federal, State, or local education funds.

''(f) CONSTRUCTION.—Nothing in this chapter shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this section.

''SEC. 5233. ACCOUNTABILITY.

''(a) ACADEMIC ACHIEVEMENT.—

''(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 5231 or 5232 for a fiscal year shall—

''(A) administer an assessment that is used statewide and is consistent with the assessment described in section 1111(b), to assess the academic achievement of students in the schools served by the local educational agency; or

''(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

''(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section 5231 or 5232 shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out under such section.

''(b) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives funding under the provisions of law described in section 5231(c) shall—

''(1) after the 3rd year that a local educational agency in the State participates in a program authorized under section 5231 or 5232 and on the basis of the results of the assessments or tests described in subsection (a), determine whether the students served by the local educational agency participating in the program performed better on the assessments or tests after the 3rd year of the participation than the students performed on the assessments or tests after the 1st year of the participation;

''(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

''(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program, for a period of 3 years from the date of the determination.

''SEC. 5234. RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.

''(a) IN GENERAL.—If the amount appropriated for any fiscal year and made available

for grants under this chapter is insufficient to pay the full amount for which all agencies are eligible under this chapter, the Secretary shall ratably reduce each such amount.

''(b) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subsection (a) shall be increased on the same basis as such payments were reduced.

''Chapter 2—Low-Income and Rural School Program

''SEC. 5241. DEFINITIONS.

''In this chapter:

''(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(2) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency' means an eligible local educational agency, located in a State that does not participate in a program carried out under this chapter for a fiscal year, which may apply directly to the Secretary for a grant for such year in accordance with section 5242(b).

''SEC. 5242. PROGRAM AUTHORIZED.

''(a) GRANTS TO STATES.—

''(1) IN GENERAL.—From the sum appropriated under section 5223 for a fiscal year and made available to carry out this chapter, the Secretary shall award grants, from allotments made under paragraph (2), to State educational agencies that have applications approved under section 5244 to enable the State educational agencies to award grants to eligible local educational agencies for innovative assistance activities described in section 5331(b).

''(2) ALLOTMENT.—From the sum appropriated under section 5223 for a fiscal year and made available to carry out this chapter, the Secretary shall allot to each State educational agency an amount that bears the same ratio to the sum as the number of students in average daily attendance at the schools served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students at the schools served by eligible local educational agencies in all States for that fiscal year.

''(b) DIRECT GRANTS TO SPECIALLY QUALIFIED AGENCIES.—

''(1) NONPARTICIPATING STATE.—If a State educational agency elects not to participate in the program carried out under this chapter or does not have an application approved under section 5244, a specially qualified agency in such State desiring a grant under this chapter shall apply directly to the Secretary under section 5244 to receive a grant under this chapter.

''(2) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under subsection (a)(2) directly to specially qualified agencies in the State.

''(c) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this chapter may not use more than 5 percent of the amount of the grant for State administrative costs.

''SEC. 5243. STATE DISTRIBUTION OF FUNDS.

''(a) IN GENERAL.—A State educational agency that receives a grant under this chapter may use the funds made available through the grant to award grants to eligible local educational agencies to enable the local educational agencies to carry out innovative assistance activities described in section 5331(b).

''(b) LOCAL AWARDS.—

''(1) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this chapter if—

''(A) 20 percent or more of the children age 5 through 17 that are served by the local educational agency are from families with incomes below the poverty line; and

''(B) all of the schools served by the agency are located in a community with a Locale Code of 6, 7, or 8, as determined by the Secretary of Education.

''(c) AWARD BASIS.—The State educational agency shall award the grants to eligible local educational agencies—

''(1) on a competitive basis; or

''(2) according to a formula based on the number of students in average daily attendance at schools served by the eligible local educational agencies.

''SEC. 5244. APPLICATIONS.

''(a) IN GENERAL.—Each State educational agency and specially qualified agency desiring to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONTENTS.—At a minimum, such application shall include information on specific measurable goals and objectives to be achieved through the activities carried out through the grant, which may include specific educational goals and objectives relating to—

''(1) increased student academic achievement;

''(2) decreased student dropout rates; or

''(3) such other factors as the State educational agency or specially qualified agency may choose to measure.

''SEC. 5245. ACCOUNTABILITY.

''(a) STATE REPORTS.—Each State educational agency that receives a grant under this chapter shall prepare and submit to the Secretary an annual report. The report shall describe—

''(1) the method the State educational agency used to award grants to eligible local educational agencies under this chapter;

''(2) how the local educational agencies used the funds provided under this chapter; and

''(3) the degree to which the State made progress toward meeting the goals and objectives described in the application submitted under section 5244.

''(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this chapter shall prepare and submit to the Secretary an annual report. The report shall describe—

''(1) how such agency used the funds provided under this chapter; and

''(2) the degree to which the agency made progress toward meeting the goals and objectives described in the application submitted under section 5244.

''(c) ACADEMIC ACHIEVEMENT.—

''(1) IN GENERAL.—Each local educational agency that receives a grant under this chapter for a fiscal year shall—

''(A) administer an assessment that is used statewide and is consistent with the assessment described in section 1111(b), to assess the academic achievement of students in the schools served by the local educational agency; or

''(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

''(2) SPECIAL RULE.—Each local educational agency that receives a grant under this chapter shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out under this chapter.

''(d) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives a grant under this chapter shall—

''(1) after the 3rd year that a local educational agency in the State participates in the program authorized under this chapter and on the basis of the results of the assessments or tests described in subsection (c), determine whether the students served by the local educational agency participating in the program performed better on the assessments or tests after the 3rd year of the participation than the students performed on the assessments or tests after the 1st year of the participation;

''(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

''(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program for a period of 3 years from the date of the determination.

''SEC. 5246. SUPPLEMENT NOT SUPPLANT.

''Funds made available under this chapter shall be used to supplement and not supplant any other Federal, State, or local education funds.

''SEC. 5247. SPECIAL RULE.

''No local educational agency may concurrently participate in activities carried out under chapter 1 and activities carried out under this chapter.

''Subpart 3—Waivers

''SEC. 5251. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

''(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

''(1) receives funds under a program authorized by this Act; and

''(2) requests a waiver under subsection (b).

''(b) REQUEST FOR WAIVER.—

''(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

''(A) identifies the Federal programs affected by such requested waiver;

''(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

''(i) increase the quality of instruction for students; or

''(ii) improve the academic performance of students;

''(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

''(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

''(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

''(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

''(2) ADDITIONAL INFORMATION.—Such requests—

''(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

''(B) shall be developed and submitted—

''(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

''(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

''(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

''(3) GENERAL REQUIREMENTS.—

''(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

''(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

''(ii) submit the comments to the Secretary; and

''(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

''(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

''(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

''(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

''(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

''(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

''(2) maintenance of effort;

''(3) comparability of services;

''(4) use of Federal funds to supplement, not supplant, non-Federal funds;

''(5) equitable participation of private school students and teachers;

''(6) parental participation and involvement;

''(7) applicable civil rights requirements;

''(8) the requirement for a charter school under subpart 1 of part A;

''(9) the prohibitions regarding—

''(A) State aid in section 5; or

''(B) use of funds for religious worship or instruction in section 10; or

''(10) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections (a) and (b).

''(d) DURATION AND EXTENSION OF WAIVER.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed 3 years.

''(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

''(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

''(B) such extension is in the public interest.

''(e) REPORTS.—

''(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

''(A) describes the uses of such waiver by such agency or by schools;

''(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

''(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

''(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

''(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

''(A) describes the uses of such waiver by schools operated by such tribe; and

''(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

''(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

''(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

''(B) describing whether such waivers—

''(i) increased the quality of instruction to students; or

''(ii) improved the academic performance of students.

''(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

''(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

''Subpart 4—Innovative Education Program Strategies

''SEC. 5301. PURPOSE; STATE AND LOCAL RESPONSIBILITY.

''(a) PURPOSE.—The purpose of this subpart is—

''(1) to support local education reform efforts that are consistent with and support statewide education reform efforts;

''(2) to provide funding to enable State and local educational agencies to implement promising educational reform strategies;

''(3) to provide a continuing source of innovation and educational improvement, including support for library services and instructional and media materials; and

''(4) to develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

''(b) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this subpart is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this subpart will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

''SEC. 5302. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

''(a) AUTHORIZATION.—To carry out the purposes of this subpart, there are authorized to be appropriated $850,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 2002, and ending September 30, 2008, the Secretary, in accordance with the provisions of this subpart, shall make payments to State educational agencies for the purpose of this subpart.

''SEC. 5303. DEFINITION OF EFFECTIVE SCHOOLS PROGRAM.

''In this subpart the term 'effective schools program' means a school-based program that—

''(1) may encompass preschool through secondary school levels; and

''(2) has the objectives of—

''(A) promoting school-level planning, instructional improvement, and staff development for all personnel;

''(B) increasing the academic performance levels of all children and particularly educationally disadvantaged children; and

''(C) achieving as an ongoing condition in the school the following factors identified through effective schools research:

''(i) Strong and effective administrative and instructional leadership.

''(ii) A safe and orderly school environment that enables teachers and students to focus on academic performance.

''(iii) Continuous assessment of students and initiatives to evaluate instructional techniques.

''Chapter 1—State and Local Programs

''SEC. 5311. ALLOTMENT TO STATES.

''(a) RESERVATIONS.—From the sums appropriated to carry out this subpart in any fiscal year, the Secretary shall reserve not more than 1 percent for payments to outlying areas to be allotted in accordance with their respective needs.

''(b) ALLOTMENT.—From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to ½ of 1 percent of such remainder.

''(c) DEFINITIONS.—In this chapter:

''(1) SCHOOL-AGE POPULATION.—The term 'school-age population' means the population aged 5 through 17.

''(2) STATE.—The term 'State' includes the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 5312. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

''(a) FORMULA.—From the sums made available each year to carry out this subpart, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private elementary schools and secondary schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies serving the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

''(1) children living in areas with high concentrations of low-income families;

''(2) children from low-income families; and

''(3) children living in sparsely populated areas.

''(b) CALCULATION OF ENROLLMENTS.—

''(1) IN GENERAL.—The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

''(A) the number of children enrolled in public schools; and

''(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this subpart, for the fiscal year preceding the fiscal year for which the determination is made.

''(2) CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this subpart.

''(3) ADJUSTMENTS.—

''(A) IN GENERAL.—Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

''(i) children living in areas with high concentrations of low-income families;

''(ii) children from low-income families; or

''(iii) children living in sparsely populated areas.

''(B) CRITERIA.—The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under subparagraph (A) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

''(c) PAYMENT OF ALLOCATIONS.—

''(1) DISTRIBUTION.—From the funds paid to a State educational agency pursuant to section 5311 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 5333 the amount of such local educational agency's allocation as determined under subsection (a).

''(2) ADDITIONAL FUNDS.—

''(A) IN GENERAL.—Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

''(B) REQUIREMENT.—In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

''(C) CONSTRUCTION.—The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

''Chapter 2—State Programs

''SEC. 5321. STATE USES OF FUNDS.

''(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available for State use under this subpart only for—

''(1) State administration of programs under this subpart, including—

''(A) supervision of the allocation of funds to local educational agencies;

''(B) planning, supervision, and processing of State funds; and

''(C) monitoring and evaluation of programs and activities under this subpart;

''(2) support for planning, designing, and initial implementation of charter schools as described in subpart 1 of part A;

''(3) support for designing and implementation of high-quality yearly student assessments;

''(4) support for implementation of State and local standards;

''(5) technical assistance and direct grants to local educational agencies, and statewide education reform activities, including effective schools programs which assist local educational agencies to provide targeted assistance; and

''(6) support for arrangements that provide for independent analysis to measure and report on school district achievement.

''(b) LIMITATIONS AND REQUIREMENTS.—Not more than 15 percent of funds available for State programs under this subpart in any fiscal year may be used for State administration under subsection (a)(1).

''SEC. 5322. STATE APPLICATIONS.

''(a) APPLICATION REQUIREMENTS.—Any State which desires to receive assistance under this subpart shall submit to the Secretary an application which—

''(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this subpart;

''(2) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this subpart;

''(3) sets forth the allocation of such funds required to implement section 5342;

''(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

''(5) provides assurances that, apart from technical and advisory assistance and monitoring compliance with this subpart, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application under section 5333;

''(6) contains assurances that there is compliance with the specific requirements of this subpart; and

''(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

''(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

''(c) AUDIT RULE.—A local educational agency that receives less than an average of $10,000 under this subpart for 3 fiscal years shall not be audited more frequently than once every 5 years.

''Chapter 3—Local Innovative Education Programs

''SEC. 5331. TARGETED USE OF FUNDS.

''(a) GENERAL RULE.—Funds made available to local educational agencies under section 5312 shall be used for innovative assistance described in subsection (b).

''(b) INNOVATIVE ASSISTANCE.—

''(1) IN GENERAL.—The innovative assistance programs referred to in subsection (a) include—

''(A) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, and other curricular materials;

''(B) programs to improve teaching and learning, including professional development activities, that are consistent with comprehensive State and local systemic education reform efforts;

''(C) activities that encourage and expand improvements throughout the local educational agency that are designed to advance student performance;

''(D) initiatives to generate, maintain, and strengthen parental and community involvement, including initiatives creating activities for school-age children and activities to meet the educational needs of children aged birth through 5;

''(E) programs to recruit, hire, and train certified teachers (including teachers certified through State and local alternative routes) in order to reduce class size;

''(F) programs to improve the academic performance of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school;

''(G) programs and activities that expand learning opportunities through best practice models designed to improve classroom learning and teaching;

''(H) programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs;

''(I) technology activities related to the implementation of school-based reform efforts, including professional development to assist teachers and other school personnel (including school library media personnel) regarding how to effectively use technology in the classrooms and the school library media centers involved;

''(J) school improvement programs or activities under section 1116 or 1117;

''(K) programs to provide for the educational needs of gifted and talented children;

''(L) programs to provide same gender schools and classrooms, consistent with applicable law;

''(M) service learning activities;

''(N) school safety programs;

''(O) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved in earning, spending, saving, and investing);

''(P) programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels; and

''(Q) supplemental educational services as defined in section 1116(f)(6).

''(2) REQUIREMENTS.—The innovative assistance programs referred to in subsection (a) shall be—

''(A) tied to promoting high academic standards;

''(B) used to improve student performance; and

''(C) part of an overall education reform strategy.

''(c) AWARD CRITERIA AND OTHER GUIDELINES.—Not later than 120 days after the date of 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 under subsection (b)(1)(L).

''SEC. 5332. ADMINISTRATIVE AUTHORITY.

''In order to conduct the activities authorized by this subpart, each State or local educational agency may use funds made available under this subpart to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

''SEC. 5333. LOCAL APPLICATIONS.

''(a) CONTENTS OF APPLICATION.—A local educational agency or consortium of such agencies may receive an allocation of funds under this subpart for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

''(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 5331 and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

''(B) sets forth the allocation of such funds required to implement section 5342;

''(2) describes how assistance under this subpart will contribute to improving student achievement or improving the quality of education for students;

''(3) provides assurances of compliance with the provisions of this subpart, including the participation of children enrolled in private, nonprofit schools in accordance with section 5342;

''(4) provides an assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State educational agency under this subpart; and

''(5) provides in the allocation of funds for the assistance authorized by this subpart, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary schools and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this subpart (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

''(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds to programs for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

''(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this subpart, a local educational agency shall have complete discretion in determining how funds under this chapter shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this chapter carry out the purposes of this subpart and are used to meet the educational needs within the schools of such local educational agency.

''Chapter 4—General Administrative Provisions

''SEC. 5341. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

''(a) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

''(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

''(3) WAIVERS.—The Secretary may waive, for 1 fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

''(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this subpart only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

''SEC. 5342. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

''(a) PARTICIPATION ON EQUITABLE BASIS.—

''(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which a program or project assisted under this subpart is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

''(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this subpart.

''(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this subpart by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

''(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

''(c) FUNDS.—

''(1) ADMINISTRATION OF FUNDS AND PROPERTY.—The control of funds provided under this subpart, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this subpart, and a public agency shall administer such funds and property.

''(2) PROVISION OF SERVICES.—The provision of services pursuant to this subpart shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

''(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary schools and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

''(e) WAIVER AND PROVISION OF SERVICES.—

''(1) FAILURE TO COMPLY.—If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary schools and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

''(2) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

''(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

''(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

''(h) REVIEW.—

''(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

''(2) COURT ACTION.—If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

''(3) REMAND TO SECRETARY.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court,

for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(4) COURT REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of part I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this subpart, apply to programs under this subpart.

"SEC. 5343. FEDERAL ADMINISTRATION.

''(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this subpart.

''(b) RULEMAKING.—The Secretary shall issue regulations under this subpart to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this subpart.

''(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this subpart shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"Chapter 5—School Construction

"SEC. 5351. DEFINITIONS.

''In this chapter:

''(1) CONSTRUCTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'construction' means—

''(i) preparation of drawings and specifications for school facilities;

''(ii) building new school facilities, or acquiring, remodeling, demolishing, renovating, improving, or repairing facilities to establish new school facilities; and

''(iii) inspection and supervision of the construction of new school facilities.

''(B) RULE.—An activity described in subparagraph (A) shall be considered to be construction only if the labor standards described in section 439 of the General Education Provisions Act (20 U.S.C. 1232b) are applied with respect to such activity.

''(2) SCHOOL FACILITY.—The term 'school facility' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility the primary purpose of which is the instruction of public elementary school or secondary school students. The term does not include an athletic stadium or any other structure or facility intended primarily for athletic exhibitions, contests, or games for which admission is charged to the general public.

"SEC. 5352. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—Funds made available to local educational agencies under section 5312 may, notwithstanding section 5331(a), be used to enable the local educational agencies to carry out the construction of new public elementary school and secondary school facilities.

''(b) NONAPPLICATION OF PROVISIONS.—The provisions of chapter 4 shall not apply to this chapter.

"SEC. 5353. CONDITIONS FOR USE OF FUNDS.

''In order to use funds for construction under this chapter a local educational agency shall meet the following requirements:

''(1) Reduce school sizes for public elementary schools and secondary schools served by the local educational agency to—

''(A) not more than 500 students in the case of a school serving kindergarten through grade 5 students;

''(B) not more than 750 students in the case of a school serving grade 6 through grade 8 students; and

''(C) not more than 1,000 students in the case of a school serving grade 9 through grade 12 students.

''(2) Provide matching funds, with respect to the cost to be incurred in carrying out the activities for which the grant is awarded, from non-Federal sources in an amount equal to the Federal funds provided under the grant.

"SEC. 5354. APPLICATIONS.

''(a) IN GENERAL.—Each local educational agency desiring to use funds under this chapter shall submit an application to the State educational agency at such time and in such manner as the State educational agency may require.

''(b) CONTENTS.—Each application shall contain—

''(1) an assurance that the grant funds will be used in accordance with this chapter;

''(2) a brief description of the construction to be conducted;

''(3) a cost estimate of the activities to be conducted; and

''(4) a description of available non-Federal matching funds.

"PART C—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 5401. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

''(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

''(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

''(2) APPLICABILITY.—This section applies to programs under title I, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 3(10).

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

''(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a), such as—

''(A) the coordination of such programs with other Federal and non-Federal programs;

''(B) the establishment and operation of peer-review mechanisms under this Act;

''(C) the administration of this part, part D, and sections 3 through 17;

''(D) the dissemination of information regarding model programs and practices; and

''(E) technical assistance under programs specified in subsection (a)(2).

''(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

''(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

''(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

''(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act.

"SEC. 5402. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

''A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

"SEC. 5403. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

''(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

''(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

''(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

''(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 5401(b)(2).

''(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

"SEC. 5404. ADMINISTRATIVE FUNDS STUDIES.

''(a) FEDERAL FUNDS STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

''(2) STATE DATA.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under title I shall submit to the Secretary a report on the use of title I funds for the State administration of activities assisted under title I. Such report shall include the proportion of State administrative funds provided under section 1903 that are expended for—

''(A) basic program operation and compliance monitoring;

''(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

''(C) technical assistance and other direct support to local educational agencies and schools.

''(3) FEDERAL FUNDS REPORT.—The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

''(4) RESULTS.—Based on the results of the study described in subsection (a)(1), which may include collection and analysis of the data under paragraph (2) and section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall—

''(A) develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies; and

''(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

''(b) GENERAL ADMINISTRATIVE FUNDS STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

''(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

''(2) the potential usefulness of such data system to reduce such administrative expenses;

''(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

''(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

''SEC. 5405. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

''(a) GENERAL AUTHORITY.—

''(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title VII of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

''(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

''(B) The agreement shall—

''(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, and set forth performance measures to assess program effectiveness, including measurable goals and objectives; and

''(ii) be developed in consultation with Indian tribes.

''(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

''SEC. 5406. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

''With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of title I) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

''PART D—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

''SEC. 5501. PURPOSE.

''It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

''SEC. 5502. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—

''(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Governor, 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 consultation 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 Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of title I; and

''(C) such other programs as the Secretary may designate.

''(3) CONSOLIDATED APPLICATIONS AND PLANS.—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

''(b) COLLABORATION.—

''(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

''(2) CONTENTS.—Through the collaborative process described in subsection (b)(1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

''(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

''SEC. 5503. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

''(a) ASSURANCES.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 5502, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

''(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

''(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

''(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

''(3) the State will adopt and use proper methods of administering each such program, including—

''(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

''(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

''(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

''(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

''(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

''(6) the State will—

''(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

''(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

''(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

''(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

''SEC. 5504. ADDITIONAL COORDINATION.

''(a) ADDITIONAL COORDINATION.—In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this Act with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

''(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date

of enactment of the Improving America's Schools Act of 1994.

"SEC. 5505. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

''(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

''(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 5502 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

''(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

''(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

"SEC. 5506. OTHER GENERAL ASSURANCES.

''(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 5504, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

''(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

''(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

''(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

''(3) the applicant will adopt and use proper methods of administering each such program, including—

''(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

''(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

''(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

''(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

''(6) the applicant will—

''(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

''(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

''(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

''(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

"PART E—ADVANCED PLACEMENT PROGRAMS

"SEC. 5601. SHORT TITLE.

''This part may be cited as the 'Access to High Standards Act'.

"SEC. 5602. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) far too many students are not being provided sufficient academic preparation in secondary school, which results in limited employment opportunities, college dropout rates of over 25 percent for the first year of college, and remediation for almost one-third of incoming college freshmen;

''(2) there is a growing consensus that raising academic standards, establishing high academic expectations, and showing concrete results are at the core of improving public education;

''(3) modeling academic standards on the well-known program of advanced placement courses is an approach that many education leaders and almost half of all States have endorsed;

''(4) advanced placement programs already are providing 30 different college-level courses, serving almost 60 percent of all secondary schools, reaching over 1,000,000 students (of whom 80 percent attend public schools, 55 percent are females, and 30 percent are minorities), and providing test scores that are accepted for college credit at over 3,000 colleges and universities, every university in Germany, France, and Austria, and most institutions in Canada and the United Kingdom;

''(5) 24 States are now funding programs to increase participation in advanced placement programs, including 19 States that provide funds for advanced placement teacher professional development, 3 States that require that all public secondary schools offer advanced placement courses, 10 States that pay the fees for advanced placement tests for some or all students, and 4 States that require that their public universities grant uniform academic credit for scores of 3 or better on advanced placement tests; and

''(6) the State programs described in paragraph (5) have shown the responsiveness of schools and students to such programs, raised the academic standards both for students participating in such programs and for other children taught by teachers who are involved in advanced placement courses, and have shown tremendous success in increasing enrollment, achievement, and minority participation in advanced placement programs.

''(b) PURPOSES.—The purposes of this part are—

''(1) to encourage more of the 600,000 students who take advanced placement courses but do not take advanced placement exams each year to demonstrate their achievements through taking the exams;

''(2) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Tests (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

''(3) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

''(4) to increase the availability and broaden the range of schools that have advanced placement programs, which programs are still often distributed unevenly among regions, States, and even secondary schools within the same school district, while also increasing and diversifying student participation in the programs;

''(5) to build on the State programs described in subsection (a)(5) and demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

''(6) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

''(7) to provide access to advanced placement courses for secondary school juniors at schools that do not offer advanced placement programs, increase the rate of secondary school juniors and seniors who participate in advanced placement courses to 25 percent of the secondary school student population, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded; and

''(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees.

"SEC. 5603. FUNDING DISTRIBUTION RULE.

''From amounts appropriated under section 5608 for a fiscal year, the Secretary shall give first priority to funding activities under section 5606, and shall distribute any remaining funds not so applied according to the following ratio:

''(1) Seventy percent of the remaining funds shall be available to carry out section 5604.

''(2) Thirty percent of the remaining funds shall be available to carry out section 5605.

"SEC. 5604. ADVANCED PLACEMENT PROGRAM GRANTS.

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—From amounts appropriated under section 5608 and made available under section 5603(1) for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (c).

''(2) DURATION AND PAYMENTS.—

''(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

''(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

''(3) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a State educational agency or a local educational agency in the State.

''(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to eligible entities submitting applications under subsection (d) that demonstrate—

''(1) a pervasive need for access to advanced placement incentive programs;

''(2) the involvement of business and community organizations in the activities to be assisted;

''(3) the availability of matching funds from State or local sources to pay for the cost of activities to be assisted;

''(4) a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science; and

''(5)(A) in the case of an eligible entity that is a State educational agency, the State educational agency carries out programs in the State that target—

''(i) local educational agencies serving schools with a high concentration of low-income students; or

''(ii) schools with a high concentration of low-income students; or

''(B) in the case of an eligible entity that is a local educational agency, the local educational agency serves schools with a high concentration of low-income students.

''(c) AUTHORIZED ACTIVITIES.—An eligible entity may use grant funds under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

''(1) teacher training;

''(2) preadvanced placement course development;

''(3) curriculum coordination and articulation between grade levels that prepare students for advanced placement courses;

''(4) curriculum development;

''(5) books and supplies; and

''(6) any other activity directly related to expanding access to and participation in advanced placement incentive programs particularly for low-income individuals.

''(d) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(e) DATA COLLECTION AND REPORTING.—

''(1) DATA COLLECTION.—Each eligible entity receiving a grant under this section shall annually report to the Secretary—

''(A) the number of students taking advanced placement courses who are served by the eligible entity;

''(B) the number of advanced placement tests taken by students served by the eligible entity;

''(C) the scores on the advanced placement tests; and

''(D) demographic information regarding individuals taking the advanced placement courses and tests disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

''(2) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to Congress regarding the information.

''SEC. 5605. ONLINE ADVANCED PLACEMENT COURSES.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 5608 and made available under section 5603(2) for a fiscal year, the Secretary shall award grants to State educational agencies to enable such agencies to award grants to local educational agencies to provide students with online advanced placement courses.

''(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

''(1) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.

''(c) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under subsection (b) shall award grants to local educational agencies within the State to carry out activities described in subsection (e). In awarding grants under this subsection, the State educational agency shall give priority to local educational agencies that—

''(1) serve high concentrations of low-income students;

''(2) serve rural areas; and

''(3) the State educational agency determines will not have access to online advanced placement courses without assistance provided under this section.

''(d) CONTRACTS.—A local educational agency that receives a grant under this section may enter into a contract with a nonprofit or for-profit organization to provide the online advanced placement courses, including contracting for necessary support services.

''(e) USES.—Grant funds provided under this section may be used to purchase the online curriculum, to train teachers with respect to the use of online curriculum, and to purchase course materials.

''SEC. 5606. ADVANCED PLACEMENT INCENTIVE PROGRAM.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 5608 and made available under section 5603 for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under subsection (c) to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

''(1) are enrolled in an advanced placement class; and

''(2) plan to take an advanced placement test.

''(b) AWARD BASIS.—In determining the amount of the grant awarded to each State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 1124(c) in the State in relation to the number of such children so counted in all the States.

''(c) INFORMATION DISSEMINATION.—A State educational agency shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

''(d) APPLICATIONS.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

''(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds made available under this section;

''(2) provide an assurance that any grant funds received under this section, other than funds used in accordance with subsection (e), shall be used only to pay for advanced placement test fees; and

''(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

''(e) ADDITIONAL USES OF FUNDS.—If each eligible low-income individual in a State pays not more than a nominal fee to take an advanced placement test in a core subject, then a State educational agency may use grant funds made available under this section that remain after advanced placement test fees have been paid on behalf of all eligible low-income individuals in the State, for activities directly related to increasing—

''(1) the enrollment of low-income individuals in advanced placement courses;

''(2) the participation of low-income individuals in advanced placement courses; and

''(3) the availability of advanced placement courses in schools serving high-poverty areas.

''(f) SUPPLEMENT, NOT SUPPLANT.—Grant funds provided under this section shall supplement, and not supplant, other non-federal funds that are available to assist low-income individuals in paying for the cost of advanced placement test fees.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

''(h) REPORT.—Each State educational agency annually shall report to the Secretary information regarding—

''(1) the number of low-income individuals in the State who received assistance under this section; and

''(2) any activities carried out pursuant to subsection (e).

''(i) DEFINITIONS.—In this section:

''(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

''(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

''SEC. 5607. DEFINITIONS.

''In this part:

''(1) ADVANCED PLACEMENT INCENTIVE PROGRAM.—The term 'advanced placement incentive program' means a program that provides advanced placement activities and services to low-income individuals.

''(2) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' means an advanced placement test administered by the College Board or approved by the Secretary.

''(3) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term 'high concentration of low-income students', used with respect to a State educational agency, local educational agency or school, means an agency or school, as the case may be, that serves a student population 40 percent or more of whom are from families with incomes below the poverty level, as determined in the same manner as the determination is made under section 1124(c)(2).

''(4) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means, other than for purposes of section 5606, a low-income individual (as defined in section 402A(g)(2) of the Higher Education Act of 1965) who is academically prepared to take successfully an advanced placement test as determined by a school teacher or advanced placement coordinator taking into consideration factors such as enrollment and performance in an advanced placement course or superior academic ability.

''(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965.

''(6) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''SEC. 5608. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART F—PERFORMANCE AGREEMENTS

''SEC. 5701. SHORT TITLE.

''This part may be cited as the 'Performance Agreements Act'.

''SEC. 5702. PURPOSE.

''The purpose of this part is to create options for selected State educational agencies and local educational agencies—

''(1) to improve the academic achievement of all students served by State educational agencies and local educational agencies, and to focus the resources of the Federal Government on that achievement;

''(2) to better empower parents, educators, administrators, and schools to effectively address the needs of their children and students;

''(3) to give participating State educational agencies and local educational agencies greater flexibility in determining how to increase their students' academic achievement and implement education reforms in their schools;

''(4) to eliminate barriers to implementing effective State and local education reform, while preserving the goals of equality of opportunity for all students and accountability for student progress;

''(5) to hold participating State educational agencies and local educational agencies accountable for increasing the academic achievement of all students, especially disadvantaged students; and

''(6) to narrow achievement gaps between the lowest and highest performing groups of students, particularly low-income and minority students, so that no child is left behind.

''SEC. 5703. PROGRAM AUTHORITY; SELECTION OF STATE EDUCATIONAL AGENCIES AND LOCAL EDUCATIONAL AGENCIES.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—Except as otherwise provided in this part, the Secretary shall enter into performance agreements—

''(A) with State educational agencies and local educational agencies that submit approvable performance agreement proposals and are selected under paragraph (2); and

''(B) under which the agencies may consolidate and use funds as described in section 5705.

''(2) SELECTION OF STATE EDUCATIONAL AGENCIES AND LOCAL EDUCATIONAL AGENCIES FOR PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the Secretary shall select not more than 7 State educational agencies and 25 local educational agencies to enter into performance agreements under this part. The State educational agencies and local educational agencies shall be selected from among those State educational agencies and local educational agencies that—

''(i) demonstrate, to the satisfaction of the Secretary, that the proposed performance agreement of the agency—

''(I) has substantial promise of meeting the requirements of this part; and

''(II) describes a plan to combine and use funds (as described in section 5705(a)(1)) under the agreement to exceed, by a statistically significant amount, the State's definition of adequate yearly progress (as described in subparagraph (B)) while meeting the requirements of sections 1111 and 1116;

''(ii) have developed, and are administering, the assessments described in section 1111(b)(3);

''(iii) provide information in the proposed performance agreement regarding how the State educational agency—

''(I) has notified the local educational agencies within the State of the State educational agency's intent to submit a proposed performance agreement; and

''(II) consulted with the Governor of the State about the terms of the proposed performance agreement;

''(iv) consulted and involved parents and educators in the development of the proposal; and

''(v) provide such other information, at such time and in such manner, as the Secretary may reasonably require.

''(B) DEFINITION OF ADEQUATE YEARLY PROGRESS.—In this part the term 'adequate yearly progress' means the adequate yearly progress determined by the State pursuant to section 1111(b)(2)(B).

''(C) GEOGRAPHIC DISTRIBUTION.—If more than 7 State educational agencies or 25 local educational agencies submit approvable performance agreements under this part, then the Secretary shall select agencies for performance agreements under this part in a manner that ensures, to the greatest extent possible, an equitable geographic distribution of such agencies selected for performance agreements. In addition, if more than 25 local educational agencies submit approvable performance agreements under this part, then the Secretary shall select local educational agencies for performance agreements under this part in a manner that ensures an equitable distribution of such agencies selected for performance agreements among such agencies serving urban and rural areas.

''(D) LOCAL EDUCATIONAL AGENCY PARTICIPATION.—

''(i) IN GENERAL.—If a local educational agency is located in a State that does not enter into a performance agreement under subparagraph (A), then the local educational agency may be selected to enter into a performance agreement with the Secretary under subparagraph (A), but only if the local educational agency—

''(I) meets the requirements of this part that are applicable to the local educational agency pursuant to clause (iii), except as provided under clause (v);

''(II) notifies the State educational agency of the local educational agency's intent to enter into a performance agreement under this part; and

''(III) notifies the Governor of the State regarding the terms of the proposed performance agreement.

''(ii) PROHIBITION.—In the event that a local educational agency enters into a performance agreement under this part, the State educational agency serving the State in which the local educational agency is located may not enter into a performance agreement under this part unless—

''(I) the State educational agency has consulted the local educational agency; and

''(II) the term of the local educational agency's original performance agreement has ended.

''(iii) APPLICABILITY.—Except as provided in clauses (iv) and (v), each requirement and limitation under this part that is applicable to a State educational agency with respect to a performance agreement under this part shall be applicable to a local educational agency with respect to a performance agreement under this section, to the extent the Secretary determines appropriate.

''(iv) LOCAL EDUCATIONAL AGENCY WAIVER.—

''(I) WAIVER.—If a local educational agency does not wish to participate in the State educational agency's performance agreement, then the local educational agency shall apply to the State educational agency for a waiver within 45 days of notification from the State educational agency of the State educational agency's desire to participate in a performance agreement.

''(II) RESPONSE.—A State educational agency that receives a waiver application under subclause (I) shall respond to the waiver application within 45 days of receipt of the application. In order to obtain the waiver, the local educational agency shall reasonably demonstrate to the State educational agency that the local educational agency would be better able to exceed adequate yearly progress by opting out of the performance agreement and remaining subject to the requirements of the affected Federal programs. If the State educational agency denies the waiver, the State educational agency shall explain to the local educational agency the State educational agency's reasons for the denial.

''(III) APPLICABILITY.—If a local educational agency receives a waiver under this clause, then the agency shall receive funds and be subject to the provisions of Federal law governing each Federal program included in the State educational agency's performance agreement.

''(v) INAPPLICABILITY.—The following provisions shall not apply to a local educational agency with respect to a performance agreement under this part:

''(I) The provisions of section 5703(a)(2)(A)(iii) relating to State educational agency information.

''(II) The provisions of section 5704(a)(3)(B) limiting the use of funds other than those funds provided under part A of title I.

''(III) The provisions of section 5705(b), to the extent that those provisions permit the consolidation of funds that are awarded by a State on a competitive basis.

''(IV) The provisions relating to distribution of funds under section 5706.

''(V) The provisions limiting State use of funds for administrative purposes under section 5708(a).

''(VI) The provisions of section 5709(e)(1) regarding State sanctions.

''(b) ED-FLEX PROHIBITION.—Each State or local educational agency that enters into a performance agreement under this part shall be ineligible to receive a waiver under part B for the term of the performance agreement.

''SEC. 5704. PERFORMANCE AGREEMENT.

''(a) TERMS OF PERFORMANCE AGREEMENT.—

''(1) REQUIRED PROVISIONS.—Each performance agreement entered into by the Secretary and a State educational agency or a local educational agency under this part shall—

''(A) be for a term of 5 years, except as provided in section 5709(a);

''(B) provide that no requirements of any program described in section 5705(b) and included in the scope of the agreement shall apply, except as otherwise provided in this part;

''(C) list which of the programs described in section 5705(b) are included in the scope of the performance agreement;

''(D) contain a 5-year plan describing how the State educational agency will—

''(i) ensure compliance with sections 1003, 1111 (other than subsections (c) (3) and (10)), 1112 (other than subsections (b) (3) and (9), (c) (5), (7), and (9), and (d)(3)), 1114, 1115, 1116, 1117, and 1118 (c), (d), and (e) (1), (3), and (7), except that section 1114(a)(1) shall be applied substituting '35 percent' for '40 percent';

''(ii) address professional development under the performance agreement;

''(iii) combine and use the funds from programs included in the scope of the performance agreement to exceed, by a statistically significant amount, the State's definition of adequate yearly progress;

''(iv) if title II is included in the performance agreement, ensure compliance with sections 2141(a) and 2142(a), as applicable; and

''(v) if title III is included in the performance agreement, ensure compliance with section 3329;

''(E) contain an assurance that the State educational agency has provided parents, teachers, schools, and local educational agencies in the State, with notice and an opportunity to comment on the proposed terms of the performance agreement, including the distribution and use of funds to be consolidated, in accordance with State law;

''(F) provide that the State educational agency will use fiscal control and fund-accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the performance agreement;

''(G) contain an assurance that the State educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the performance agreement and in consolidating and using the funds under the performance agreement;

''(H) require that, in consolidating and using funds under the performance agreement, the State educational agency will comply with the equitable participation requirements described in section 5705(c);

''(I) provide that the State educational agency will, for the duration of the performance agreement, use funds consolidated and used under section 5705 only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds and used under section 5705, and not to supplant those funds;

''(J) contain an assurance that the State educational agency will comply with the maintenance of effort requirements of paragraph (2);

''(K) provide that, not later than 1 year after the date on which the Secretary and the State educational agency enter into the performance agreement, and annually thereafter during the term of the agreement, the State educational agency will disseminate widely to parents (in a format and, to the extent practicable, in a language the parents can understand) and the general public, transmit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes—

''(i) the data as described in section 1111(j);

''(ii) a detailed description of how the State educational agency used the funds consolidated under the performance agreement to exceed, by a statistically significant amount, its definition of adequate yearly progress; and

''(iii) whether the State educational agency has met the teacher quality goals established under title II; and

''(L) in the case of an agency that includes subpart 1 of part A of title IV in its performance agreement, contain an assurance that—

''(i) the agency will not diminish its ability to provide a drug and violence free learning environment as a result of entering into the performance agreement, except that nothing in this clause shall be construed to limit the ability of the agency to participate in a program under title IV due to an unforeseen event involving drugs or violence;

''(ii) the agency will prepare the needs assessment described in section 4112(a)(2) and the report described in section 4117 (b) and (c), as appropriate, for each school year; and

''(iii) the agency will use the information in the assessment and report described in clause (ii) to ensure compliance with clause (i).

''(2) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

''(A) IN GENERAL.—Each State entering into a performance agreement under this part shall not reduce the amount of State financial support for education for a fiscal year below the amount of such support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN EFFORT.—The Secretary shall reduce the allotment of funds to a State pursuant to the terms of the performance agreement for any fiscal year following a fiscal year in which the State fails to comply with subparagraph (A) by the same amount by which the State fails to meet the requirements of subparagraph (A).

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

''(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), then the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

''(3) MAINTENANCE OF LOCAL FINANCIAL SUPPORT.—

''(A) IN GENERAL.—Each local educational agency entering into a performance agreement under this part shall not reduce the amount of local educational agency financial support for education for a fiscal year below 90 percent of the amount of that support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the amount made available to a local educational agency under a performance agreement under this part for any fiscal year following the fiscal year in which the local educational agency fails to comply with subparagraph (A) by the same amount by which the local educational agency fails to meet the requirements of subparagraph (A).

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a local educational agency if the Secretary determines that granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, or to permit the local educational agency to adjust for changes in student population within the schools served by the local educational agency.

''(D) SUBSEQUENT YEARS.—If, for any year, a local educational agency fails to meet the requirement of subparagraph (A), including any year for which the local educational agency is granted a waiver under subparagraph (C), then the financial support required of the local educational agency in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the local educational agency's support.

''(4) PROGRAM-SPECIFIC PROVISIONS.—

''(A) PART A OF TITLE I FUNDS.—If part A of title I is included in the scope of the performance agreement, the performance agreement shall provide that sections 1113, and 1124 through 1127, shall apply to the allocation of funds under such part, unless the State educational agency demonstrates, to the satisfaction of the Secretary and prior to approval of the performance agreement, that the State educational agency will use an alternative allocation method that will better target poverty or educational need. Any alternative method shall result in the percentage of such funds allocated to each local educational agency served by the State educational agency that meets the eligibility criteria for a concentration grant according to section 1124A exceeding the percentage of such funds allocated to such local educational agency under part A of title I. Such alternative allocation methods may include implementation of a State's weighted formula, use of a State's most current census data to better target poor children, or a State setting higher thresholds for poverty so that funding is more targeted to schools with higher concentrations of poverty.

''(B) NONTITLE I FUNDS.—The performance agreement shall provide that, for funds other than those under part A of title I that are consolidated and used under section 5705(b), the State educational agency will demonstrate, to the satisfaction of the Secretary and prior to approval of the performance agreement, that the State educational agency will allocate the funds in a manner that, each year, allocates funds to serve high concentrations of children from low-income families at a level proportional to or higher than the level that would occur without such consolidation or use.

''(b) APPROVAL OF PERFORMANCE AGREEMENT.—

''(1) IN GENERAL.—Subject to section 5703(a), not later than 90 days after the deadline established by the Secretary for receipt of a complete proposed performance agreement, the Secretary shall approve the performance agreement, or provide the State educational agency with a written explanation for not approving the performance agreement.

''(2) PEER REVIEW.—The Secretary shall—

''(A) establish a peer review process to assist in the review of proposed performance agreements under this part; and

''(B) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.

''(c) AMENDMENT TO PERFORMANCE AGREEMENT.—

''(1) IN GENERAL.—Not later than 1 year after entering into a performance agreement under this part, a State educational agency may amend its agreement to—

''(A) remove from the scope of the agreement any program described in section 5705(b); or

''(B) include in the scope of the agreement any additional program described in section 5705(b), or any additional achievement indicators for which the State educational agency will be held accountable.

''(2) APPROVAL OF AMENDMENT.—

''(A) IN GENERAL.—Not later than 90 days after the receipt of a complete proposed amendment described in paragraph (1), the Secretary shall approve the amendment unless the Secretary, by that deadline, provides the State educational agency with a written determination that the plan, as amended, would no longer have substantial promise of meeting the requirements of this part and meeting the State educational agency's objective to exceed adequate yearly progress.

''(B) TREATMENT AS APPROVED.—Each amendment for which the Secretary fails to take the action required under subparagraph (A) in the time period described in that subparagraph shall be considered to be approved.

''(3) ADDITIONAL AMENDMENTS.—In addition to the amendments described in paragraph (1), the State educational agency, at any time, may amend its performance agreement if the State educational agency demonstrates, to the satisfaction of the Secretary, that—

''(A) the plan, as amended, will continue to have substantial promise of meeting the requirements of this part; and

''(B) the amendment sought by the State will not substantially alter the original agreement.

''(4) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—The addition, or removal, of a program to or from the scope of a performance agreement under paragraph (1) shall take effect with respect to the participating agency's use of funds made available under that program beginning on the first day of the first full academic year following the approval of the amendment.

''SEC. 5705. CONSOLIDATION AND USE OF FUNDS.

''(a) IN GENERAL.—

''(1) AUTHORITY.—Under a performance agreement entered into under this part, a State educational agency may consolidate, subject to subsection (c), Federal funds made available to the State educational agency under the provisions listed in subsection (b) and use those funds for any purpose or use permitted under any of the eligible programs listed in section 5705(b), subject to paragraph (3).

''(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this part, a State educational agency may use funds under paragraph (1) notwithstanding the requirements of the program under which the funds were made available to the State educational agency.

''(3) CONTINUATION AWARDS.—A State educational agency shall make continuation awards for the duration of the grants to recipients of multiyear competitive grants under any of the programs described in subsection (b) that were initially awarded prior to entering into the performance agreement, and shall not consolidate any funds under subsection (b) for any year until after those continuation awards are made.

''(b) ELIGIBLE PROGRAMS.—Only funds made available for fiscal year 2002 or any succeeding fiscal year to State educational agencies under programs under any of the following provisions of law may be consolidated and used under subsection (a):

''(1) Part A (other than section 1003), subpart 1 of part B, part F or G, or subpart 2 of part H (but only if appropriations for such subpart exceed $250,000,000 and the program becomes a State formula grant program), of title I.

''(2) Subpart 1 or 2 of part A, or part C, of title II.

''(3) Part A or D, as appropriate, of title III (other than grant funds made available under section 3324(c)(1)).

''(4) Subpart 1 of part A of title IV.

''(5) Subpart 3 of part A, or subpart 4 of part B, of title V.

''(6) Any appropriation subsequent to fiscal year 2001 for the purposes described in section 310 of the Department of Education Appropriations Act, 2000.

''(7) Any appropriation subsequent to fiscal year 2001 for the purposes described in section 321(b)(2) of the Department of Education Appropriations Act, 2001.

''(8) Any other program under this Act that is enacted after the date of enactment of the Better Education for Students and Teachers Act under which the Secretary provides grants to State educational agencies to assist elementary and secondary education on the basis of a formula.

''(c) EQUITABLE PARTICIPATION REQUIREMENTS.—If a State educational agency or local

educational agency includes in the scope of its performance agreement programs described in subsection (b) that have requirements relating to the equitable participation of private schools, then—

''(1) each local educational agency in the State, or the local educational agency, as appropriate, shall determine the amount of consolidated funds to be used for services and benefits for private school students and teachers by—

''(A) calculating separately the amount of funds for services and benefits for private school students and teachers under each program that is consolidated and to which those requirements apply; and

''(B) totaling the amounts calculated under subparagraph (A);

''(2) except as described in paragraph (3), all equitable participation requirements, including any bypass requirements, applicable to the program that is consolidated shall continue to apply to the funds consolidated under the agreement from that program; and

''(3) the agency may use the amount of funds determined under paragraph (1) only for those services and benefits for private school students and teachers in accordance with any of the consolidated programs to which the equitable participation requirements apply, but may not provide any additional benefits or services beyond those allowable under the applicable equitable participation requirements under this Act.

''SEC. 5706. STATE RESERVATION FOR STATE-LEVEL ACTIVITIES.

''(a) STATE-LEVEL ACTIVITIES.—In order to carry out State-level activities under the purposes described in section 5705(a)(1) to exceed, by a statistically significant amount, the State's definition of adequate yearly progress, a State educational agency that—

''(1) includes part A of title I in the scope of its performance agreement, may reserve not more than 5 percent of the funds under that part to carry out such activities; and

''(2) includes programs other than part A of title I in the scope of its performance agreement, may reserve not more than 10 percent of the funds under those other programs to carry out such activities.

''(b) DISTRIBUTION OF REMAINDER.—A State educational agency shall distribute the consolidated funds not used under subsection (a) to local educational agencies in the State in a manner determined by the State educational agency in accordance with section 5707.

''SEC. 5707. DISTRIBUTION OF FUNDS UNDER AGREEMENT.

''The distribution of funds consolidated under a performance agreement shall be determined by the State educational agency in consultation with the Governor of the State, subject to the requirements of this part.

''SEC. 5708. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

''(a) STATE EDUCATIONAL AGENCY.—Subject to section 5709(e)(1), each State educational agency that has entered into a performance agreement under this part may reserve for administrative purposes not more than 1 percent of the total amount of funds made available to the State educational agency under the programs included in the scope of the performance agreement.

''(b) LOCAL EDUCATIONAL AGENCY.—Subject to section 5709(e)(2), each local educational agency that has entered into a performance agreement with the Secretary under this part may use for administrative purposes not more than 4 percent of the total amount of funds made available to the local educational agency under the programs included in the scope of the performance agreement.

''SEC. 5709. PERFORMANCE REVIEW AND PENALTIES.

''(a) EARLY TERMINATION OF AGREEMENT.—

''(1) PERFORMANCE GOAL FAILURE.—Beginning with the first full academic year after a State educational agency enters into a performance agreement under this part, and after providing the State educational agency with notice and an opportunity for a hearing (including the opportunity to provide information as provided in paragraph (3)), if the State educational agency fails to meet its definition of adequate yearly progress for 2 consecutive years, or fails to exceed, by a statistically significant amount, its definition of adequate yearly progress for 3 consecutive years, then the Secretary shall terminate promptly the performance agreement.

''(2) NONCOMPLIANCE.—The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide information as provided in paragraph (3)), terminate a performance agreement if there is evidence that the State educational agency has failed to comply with the terms of the performance agreement.

''(3) INFORMATION.—If a State educational agency believes that the Secretary's determination under this subsection is in error for statistical or other substantive reasons, the State educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final early termination determination.

''(b) NO RENEWAL IF PERFORMANCE UNSATISFACTORY.—If, at the end of the 5-year term of a performance agreement entered into under this part, a State educational agency has not substantially met the State's definition of adequate yearly progress, then the Secretary shall not renew the agreement under section 5710.

''(c) TWO-YEAR WAIT-OUT PERIOD.—A State educational agency whose performance agreement was terminated under subsection (a), or was not renewed in accordance with subsection (b), may not enter into another performance agreement under this part until after the State educational agency meets its definition of adequate yearly progress for 2 consecutive years following the termination or nonrenewal.

''(d) PROGRAM REQUIREMENTS IN EFFECT AFTER TERMINATION OR NONRENEWAL OF THE AGREEMENT.—Beginning on the first day of the first full academic year following the end of a performance agreement under this part (including through termination under subsection (a)) the State educational agency shall comply with each of the program requirements in effect on that date for each program included in the performance agreement.

''(e) SANCTIONS.—

''(1) STATE SANCTIONS.—If, beginning with the first full academic year after a State educational agency enters into a performance agreement under this part—

''(A) the Secretary determines, on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, for 2 consecutive years, that—

''(i) the State educational agency has failed to exceed, by a statistically significant amount, the State's definition of adequate yearly progress; and

''(ii) students who are racial and ethnic minorities, and economically disadvantaged students, in the State failed to make statistically significant progress in the academic subjects for which the State has developed State content and student performance standards,

then the amount that the State educational agency may use for administrative expenses in accordance with section 5708 shall be reduced by 30 percent;

''(B) the Secretary determines that a State educational agency which included title II in its performance agreement failed to comply with section 2141(a), then the Secretary shall withhold funds as described in section 2141(d); and

''(C) the Secretary determines that a State educational agency which included title III in its performance agreement failed to comply with section 3329, then the Secretary shall withhold funds as described in section 3329(b).

''(2) LOCAL EDUCATIONAL AGENCIES.—If, beginning with the first full academic year after a local educational agency enters into a performance agreement under this part, the Secretary determines, on the basis of data from the State assessment system described in section 1111 that a local educational agency failed to exceed, by a statistically significant amount, the State's definition of adequate yearly progress for 2 consecutive years, then the amount that the local educational agency may use for administrative expenses in accordance with section 5708 shall be reduced by 30 percent.

''SEC. 5710. RENEWAL OF PERFORMANCE AGREEMENT.

''(a) IN GENERAL.—Except as provided in section 5709 (a) and (b), and in accordance with this section, the Secretary shall renew for 1 additional 5-year term a performance agreement under this part if the Secretary determines, on the basis of the information reported under section 5704(a)(1)(K), that the adequate yearly progress described in the performance agreement has been exceeded by a statistically significant amount.

''(b) NOTIFICATION.—The Secretary shall not renew a performance agreement under this part unless the State educational agency seeking the renewal notifies the Secretary of the agency's intention to renew the performance agreement not less than 6 months prior to the end of the original term of the performance agreement.

''(c) EFFECTIVE DATE.—A renewal under this section shall be effective at the end of the original term of the performance agreement or on the date on which the State educational agency provides to the Secretary all data and information required under the performance agreement, whichever is later, except that in no case may there be a renewal under this section unless that data and information is provided to the Secretary not later than 60 days after the end of the original term of the performance agreement.

''SEC. 5711. EVALUATION.

''(a) STUDY.—The Secretary is authorized to award a grant to the Comptroller General to conduct a study examining the effectiveness of the demonstration program under this part. The study shall examine—

''(1) the performance of the disaggregated groups of students described in section 1111(b)(3)(K) prior to entering into the performance agreement as compared to the performance of such groups after completion of the performance agreement on State assessments and the National Assessment of Educational Progress;

''(2) the dropout data (as required by section 1111(j)) prior to entering into the performance agreement as compared to the dropout data after completion of the performance agreement;

''(3) the ways in which the State educational agencies and local educational agencies entering into performance agreements distributed and used Federal education resources as compared to the ways in which such agencies distributed and used Federal education resources prior to entering the performance agreement;

''(4) a comparison of the data described in paragraphs (1), (2), and (3) between State educational agencies and local educational agencies entering into performance agreements compared to other State educational agencies and local educational agencies to determine the effectiveness of the program; and

''(5) any other factors that are relevant to evaluating the effectiveness of the program.

''(b) REPORT.—The Secretary shall make public the results of the evaluation carried out under subsection (a) and shall report the results of the study to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

''SEC. 5712. TRANSMITTAL OF REPORTS TO CONGRESS.

''Not later than 60 days after the Secretary receives an annual report described in section

5704(a)(1)(K), the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.''.

SEC. 502. EMPOWERING PARENTS.

(a) SHORT TITLE.—This section may be cited as the ''Empowering Parents Act of 2001''.

(b) PUBLIC SCHOOL CHOICE.—

(1) SHORT TITLE OF 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 ensure that parents of children in failing public schools have the choice to send their children to higher performing public schools, including public charter schools;

(C) to support and stimulate improved public school performance through increased public school competition and increased Federal financial assistance;

(D) 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 5120.

''(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 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, 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) STUDENT IN 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;

''(3) the cost of capacity-enhancing activities that enable high-demand public schools to accommodate transfer requests under the program;

''(4) the cost of carrying out public education campaigns to inform students and parents about the program;

''(5) administrative costs; and

''(6) other costs reasonably necessary to implement the program.

''(b) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subpart shall supplement, and not supplant, State and local public funds expended to provide public school choice programs for eligible individuals.

''SEC. 5164. REQUIREMENTS.

''(a) INCLUSION IN PROGRAM.—In carrying out a public school choice program under this subpart, a State educational agency or local educational agency shall—

''(1) allow all students attending public schools within the State or school district involved to attend the public school of their choice within the State or school district, respectively;

''(2) provide all eligible students in all grade levels equal access to the program;

''(3) include in the program charter schools and any other public school in the State or school district, respectively; and

''(4) develop the program with the involvement of parents and others in the community to be served, and individuals who will carry out the program, including administrators, teachers, principals, and other staff.

''(b) NOTICE.—In carrying out a public school choice program under this subpart, a State educational agency or local educational agency shall give parents of eligible students prompt notice of the existence of the program and the program's availability to such parents, 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 provide eligible 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, sexual orientation, 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.

''(a) IN GENERAL.—From the amount made available to carry out this subpart for any fiscal year, the Secretary may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

''(b) EVALUATIONS.—In carrying out evaluations under subsection (a), the Secretary may use the amount reserved under subsection (a) to carry out 1 or more evaluations of State and local programs assisted under this subpart, which shall, at a minimum, address—

''(1) how, and the extent to which, the programs promote educational equity and excellence; and

''(2) the extent to which public schools carrying out the programs are—

''(A) held accountable to the public;

''(B) effective in improving public education; and

''(C) open and accessible to all students.

''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.''.

(c) PUBLIC CHARTER SCHOOL FACILITIES FINANCING.—

(1) SHORT TITLE OF SUBSECTION.—This subsection may be cited as the ''Charter 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 5121''.

(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:

''(b) 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 competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering, programs in which the States make payments, on a per-pupil basis, to charter schools to assist the schools in financing school facilities (referred to in this subsection as 'per-pupil facilities aid programs').

''(B) 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 more than—

''(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection or its predecessor authority;

''(ii) 80 percent in the second such year;

''(iii) 60 percent in the third such year;

''(iv) 40 percent in the fourth such year; and

''(v) 20 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) EVALUATIONS; 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 5 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 be required to participate in a program carried out under this subsection.

''(B) STATE LAW.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

''(i) is specified in State law;

''(ii) provides annual financing, on a per-pupil basis, for charter school facilities; and

''(iii) provides financing that is dedicated solely for funding the facilities.

''(4) APPLICATIONS.—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.

''(5) PRIORITIES.—In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 5112(e).

''(6) EVALUATIONS, TECHNICAL ASSISTANCE, AND DISSEMINATION.—

''(A) IN GENERAL.—From the amount made available to carry out this subsection under section 5121 for any fiscal year, the Secretary may carry out evaluations, provide technical assistance, and disseminate information.

''(B) EVALUATIONS.—In carrying out evaluations under subparagraph (A), the Secretary may carry out 1 or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

''(i) how, and the extent to which, the programs promote educational equity and excellence; and

''(ii) the extent to which charter schools supported through the programs are—

''(I) held accountable to the public;

''(II) effective in improving public education; and

''(III) open and accessible to all students.''.

(C) AUTHORIZATION OF APPROPRIATIONS.—Section 5121, as amended in section 501, is further amended to read as follows:

''SEC. 5121. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $400,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) RESERVATION.—For fiscal year 2002, the Secretary shall reserve, from the amount appropriated under subsection (a)—

''(1) $200,000,000 to carry out this subpart, other than section 5115(b); and

''(2) the remainder to carry out section 5115(b).''.

(4) CREDIT ENHANCEMENT INITIATIVES.—Subpart 1 of part A of title V, as amended in section 501, is further amended—

(A) by inserting after the subpart heading the following:

''CHAPTER I—CHARTER SCHOOL PROGRAMS'';

(B) by striking ''this subpart'' each place it appears and inserting ''this chapter''; and

(C) by adding at the end the following:

''CHAPTER II—CREDIT ENHANCEMENT INITIATIVES TO PROMOTE CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

''SEC. 5126. PURPOSE.

''The purpose of this chapter is to provide grants to eligible entities to permit the entities to establish or improve innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

''SEC. 5126A. GRANTS TO ELIGIBLE ENTITIES.

''(a) GRANTS FOR INITIATIVES.—

''(1) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this chapter to eligible entities having applications approved under this chapter to carry out innovative initiatives for assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

''(2) NUMBER OF GRANTS.—The Secretary shall award not fewer than 3 of the grants.

''(b) GRANTEE SELECTION.—

''(1) DETERMINATION.—The Secretary shall evaluate each application submitted, 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—

''(A) 1 grant to an eligible entity described in section 5126I(2)(A);

''(B) 1 grant to an eligible entity described in section 5126I(2)(B); and

''(C) 1 grant to an eligible entity described in section 5126I(2)(C),

if applications are submitted that permit the Secretary to award the grants without approving an application that is not of sufficient quality to merit approval.

''(c) GRANT CHARACTERISTICS.—Grants under this chapter shall be in sufficient amounts, and for initiatives of sufficient scope and quality, so as to effectively enhance credit for the financing of charter school acquisition, construction, or renovation.

''(d) SPECIAL RULE.—In the event the Secretary determines that the funds available to carry out this chapter are insufficient to permit the Secretary to award not fewer than 3 grants in accordance with subsections (a) through (c)—

''(1) subsections (a)(2) and (b)(2) shall not apply; and

''(2) the Secretary may determine the appropriate number of grants to be awarded in accordance with subsections (a)(1), (b)(1), and (c).

''SEC. 5126B. APPLICATIONS.

''(a) IN GENERAL.—To receive a grant under this chapter, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

''(b) CONTENTS.—An application submitted under subsection (a) shall contain—

''(1) a statement identifying the activities proposed to be undertaken with funds received under this chapter, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance the charter schools will receive;

''(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

''(3) a description of the applicant's expertise in capital market financing;

''(4) a description of how the proposed activities will—

''(A) leverage private sector financing capital, to obtain the maximum amount of private sector financing capital, relative to the amount of government funding used, to assist charter schools; and

''(B) otherwise enhance credit available to charter schools;

''(5) a description of how the applicant possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

''(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding the schools need to have adequate facilities; and

''(7) such other information as the Secretary may reasonably require.

''SEC. 5126C. CHARTER SCHOOL OBJECTIVES.

''An eligible entity receiving a grant under this chapter shall use the funds received through the grant, and deposited in the reserve account established under section 5126D(a), to assist 1 or more charter schools to access private sector capital to accomplish 1 or more of the following objectives:

''(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation 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 operation 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.

''SEC. 5126D. 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 (other than funds used for administrative costs in accordance with section 5126E) in a reserve account established and maintained by the entity for that purpose. The entity shall make the deposit in accordance with State and local law and may make the deposit directly or indirectly, and alone or in collaboration with others.

''(b) USE OF FUNDS.—Amounts deposited in such account shall be used by the entity for 1 or more of the following purposes:

''(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5126C.

''(2) Guaranteeing and insuring leases of personal and real property for such an objective.

''(3) Facilitating financing for such an objective by identifying potential lending sources, encouraging private lending, and carrying out other similar activities that directly promote lending to, or for the benefit of, charter schools.

''(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, for such an objective, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

''(c) INVESTMENT.—Funds received under this chapter and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

''(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 may use not more than 0.25 percent of the funds received through the grant for the administrative costs of carrying out the entity's responsibilities under this chapter.

"SEC. 5126F. AUDITS 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 reporting 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 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. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this chapter.

"SEC. 5126H. RECOVERY OF FUNDS.

''(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

''(1) all of the funds in a reserve account established by an eligible entity under section 5126D(a) if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this chapter, that the entity has failed to make substantial progress in carrying out the purposes described in section 5126D(b); or

''(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5126D(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5126D(b).

''(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve 1 or more of the purposes described in section 5126D(b).

''(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234 et seq.) shall apply to the recovery of funds under subsection (a).

''(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

"SEC. 5126I. DEFINITIONS.

''In this chapter:

''(1) CHARTER SCHOOL.—The term 'charter school' has the meaning given such term in section 5120.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a public entity, such as a State or local governmental entity;

''(B) a private nonprofit entity; or

''(C) a consortium of entities described in subparagraphs (A) and (B).

"SEC. 5126J. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $200,000,000 for fiscal year 2002 and each subsequent fiscal year.''.

TITLE VI—PARENTAL INVOLVEMENT AND ACCOUNTABILITY

SEC. 601. PARENTAL INVOLVEMENT AND ACCOUNTABILITY.

Title VI (20 U.S.C. 7301 et seq.) is amended to read as follows:

"TITLE VI—PARENTAL INVOLVEMENT AND ACCOUNTABILITY

"PART A—PARENTAL ASSISTANCE

"SEC. 6101. PARENTAL INFORMATION AND RESOURCE CENTERS.

''(a) PURPOSE.—The purpose of this part is—

''(1) to provide leadership, technical assistance, and financial support to nonprofit organizations (including statewide nonprofit organizations) and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student performance;

''(2) to strengthen partnerships among parents (including parents of children from birth through age 5), teachers, principals, administrators, and other school personnel in meeting the educational needs of children;

''(3) to develop and strengthen the relationship between parents and the school;

''(4) to further the developmental progress primarily of children assisted under this part;

''(5) to coordinate activities funded under this part with parental involvement initiatives funded under section 1118 and other provisions of this Act; and

''(6) to provide a comprehensive approach to improving student learning through coordination and integration of Federal, State, and local services and programs.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations (including statewide nonprofit organizations), and nonprofit organizations in consortia with local educational agencies, to establish school-linked or school-based parental information and resource centers that provide comprehensive training, information, and support to—

''(A) parents of children enrolled in elementary schools and secondary schools;

''(B) individuals who work with the parents described in subparagraph (A);

''(C) State educational agencies, local educational agencies, 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

''(D) 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 United 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. 6102. APPLICATIONS.

''(a) GRANTS APPLICATIONS.—

''(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.—Each application submitted under paragraph (1), at a minimum, shall include assurances that the organization or consortium will—

''(A)(i) be governed by a board of directors the membership of which includes parents; or

''(ii) be an organization or consortium that represents the interests of parents;

''(B) establish a special advisory committee the membership of which includes—

''(i) parents described in section 6101(b)(1)(A), 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;

''(C) use at least ½ of the funds provided under this part in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

''(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

''(E) serve both urban and rural areas;

''(F) design a center that meets the unique training, information, and support needs of parents described in section 6101(b)(1)(A), particularly such parents who are educationally or economically disadvantaged;

''(G) demonstrate the capacity and expertise to conduct the effective training, information and support activities for which assistance is sought;

''(H) network with—

''(i) local educational agencies and schools;

''(ii) parents of children enrolled in elementary schools and secondary schools;

''(iii) parent training and information centers assisted under section 682 of the Individuals with Disabilities Education Act;

''(iv) clearinghouses; and

''(v) other organizations and agencies;

''(I) focus on serving parents described in section 6101(b)(1)(A) who are parents of low-income, minority, and limited English proficient, children;

''(J) use at least ½ of the funds received under this part to establish, expand, or operate Parents as Teachers programs or Home Instruction for Preschool Youngsters 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) work with State and local educational agencies to determine parental needs and delivery of services;

''(M) identify and coordinate Federal, State, and local services and programs 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) GRANT RENEWAL.—For each fiscal year after the first fiscal year an organization or consortium receives assistance under this part, the organization or consortium shall demonstrate in the application submitted for such fiscal year after the first fiscal year that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

''SEC. 6103. USES OF FUNDS.

''(a) IN GENERAL.—Grant funds received under this part shall be used—

''(1) to assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

''(A) to engage in activities that will improve student performance, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational performance in comparison to State and local standards;

''(B) to provide followup support for their children's educational achievement;

''(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

''(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

''(E) to participate in the design and provision of assistance to students who are not making adequate educational progress;

''(F) to participate in State and local decisionmaking; and

''(G) to train other parents (such as training related to Parents as Teachers activities);

''(2) to obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents;

''(3) to help the parents learn and use the technology applied in their children's education;

''(4) to plan, implement, and fund activities for parents that coordinate the education of their children with other Federal, 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 the grant; and

''(6) to coordinate and integrate early childhood programs with school age programs.

''(b) PERMISSIVE ACTIVITIES.—Grant funds received under this part may be used to assist schools with activities such as—

''(1) developing and implementing their plans or activities under sections 1118 and 1119; and

''(2) developing and implementing school improvement plans, including addressing problems that develop in the implementation of sections 1118 and 1119.

''(3) providing information about assessment and individual results to parents in a manner and a language the family can understand;

''(4) coordinating the efforts of Federal, State, and local parent education and family involvement initiatives; and

''(5) providing training, information, and support to—

''(A) State educational agencies;

''(B) local educational agencies and schools, especially those local educational agencies and schools that are low performing; and

''(C) organizations that support family-school partnerships.

''(c) GRANDFATHER CLAUSE.—The Secretary shall use funds made available under this part to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the Better Education for Students and Teachers Act) for the duration of the grant or contract award.

''SEC. 6104. TECHNICAL ASSISTANCE.

''The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

''SEC. 6105. REPORTS.

''(a) INFORMATION.—Each organization or consortium receiving assistance under this part shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this part, including—

''(1) the number of parents (including the number of minority and limited English proficient parents) who receive information and training;

''(2) the types and modes of training, information, and support provided under this part;

''(3) the strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this part;

''(4) the parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student achievement, student and school performance, and parental involvement in school planning, review, and improvement; and

''(5) the effectiveness of the activities that local educational agencies and schools are carrying out with regard to parental involvement and other activities assisted under this Act that lead to improved student achievement and improved student and school performance.

''(b) DISSEMINATION.—The Secretary annually shall disseminate, widely to the public and to Congress, the information that each organization or consortium submits under subsection (a) to the Secretary.

''SEC. 6106. GENERAL PROVISIONS.

''Notwithstanding any other provision of this part—

''(1) no person, including a parent who educates a child at home, a public school parent, or a private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this part; and

''(2) no program or center assisted under this part shall take any action that infringes in any manner on the right of a parent to direct the education of their children.

''SEC. 6106A. LOCAL FAMILY INFORMATION CENTERS.

''(a) CENTERS AUTHORIZED.—The Secretary shall award grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations 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 and secondary education and in helping their children to meet challenging State standards.

''(b) DEFINITION OF LOCAL NONPROFIT PARENT ORGANIZATION.—In this section, the term 'local nonprofit parent organization' means a private nonprofit organization (other than an institution of higher education) that—

''(1) has a demonstrated record of working with low-income individuals and parents;

''(2)(A) has a board of directors the majority of whom are parents of students in schools that are assisted under this part and located in the geographic area to be served by the center; or

''(B) has a special governing committee to direct and implement the center, a majority of the members of whom are parents of students in schools assisted under this part; and

''(3) is located in a community with schools that receive funds under this part, and is accessible to the families of students in those schools.

''SEC. 6107. PARENTAL ASSISTANCE AND LOCAL FAMILY INFORMATION CENTERS.

''(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $80,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) RESERVATION.—Of the amount appropriated under subsection (a) for a fiscal year—

''(1) the Secretary shall reserve $50,000,000 to carry out this part, other than section 6106A; and

''(2) in the case of any amounts appropriated in excess of $50,000,000 for such fiscal year, the Secretary shall allocate an amount equal to—

''(A) 50 percent of such excess to carry out section 6106A; and

''(B) 50 percent of such excess to carry out parent information and resource centers under this part.

''PART B—IMPROVING ACADEMIC ACHIEVEMENT

''SEC. 6201. EDUCATION AWARDS.

''(a) ACHIEVEMENT IN EDUCATION AWARDS.—

''(1) IN GENERAL.—The Secretary may make awards, to be known as 'Achievement in Education Awards', using a peer review process, to the States that, beginning with the 2002–2003 school year, make the most progress in improving educational achievement.

''(2) CRITERIA.—

''(A) IN GENERAL.—The Secretary shall make the awards on the basis of criteria consisting of—

''(i) the progress of each of the categories of students described in section 1111(b)(2)(B)(v)(II)—

''(I) towards the goal of all such students reaching the proficient level of performance; and

''(II) beginning with the 2nd year for which data are available for all States, on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills;

''(ii) the progress of all students in the State towards the goal of all students reaching the proficient level of performance, and (beginning with the 2nd year for which data are available for all States) the progress of all students on the assessments described in clause (i)(II);

''(iii) the progress of the State in improving the English proficiency of students who enter school with limited English proficiency;

''(iv) the progress of the State in increasing the percentage of students who graduate from secondary school; and

''(v) the progress of the State in increasing the percentage of students who take advanced coursework, such as advanced placement and international baccalaureate courses, and who pass advanced placement and international baccalaureate tests.

''(B) WEIGHT.—In applying the criteria described in subparagraph (A), the Secretary shall give the greatest weight to the criterion described in subparagraph (A)(i).

''(b) ASSESSMENT COMPLETION BONUSES.—

''(1) IN GENERAL.—At the end of school year 2006–2007, the Secretary shall make 1-time bonus

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 terms of assessing 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 and depth of student knowledge and proficiency in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

''(2) PEER REVIEW.—In making awards under paragraph (1), the Secretary shall use a peer review process.

''(c) NO CHILD LEFT BEHIND AWARDS.—The Secretary may make awards, to be known as 'No Child Left Behind Awards' to the schools that—

''(1) are nominated by the States in which the schools are located or, in the case of a Bureau of Indian Affairs funded school, by the Secretary of the Interior; and

''(2) have made the greatest progress in improving the educational achievement of economically disadvantaged students.

''(d) FUND TO IMPROVE EDUCATION ACHIEVEMENT.—The Secretary may make awards for activities other than the activities described in subsections (a) through (c), such as character education and the identification and recognition of exemplary schools and programs such as Blue Ribbon Schools, that are designed to promote the improvement of elementary and secondary education nationally.

''(e) BLUE RIBBON SCHOOLS DISSEMINATION DEMONSTRATION.—

''(1) IN GENERAL.—The Secretary shall conduct demonstration projects to evaluate the effectiveness of using the best practices of Blue Ribbon Schools to improve the educational outcomes of elementary and secondary schools that fail to make adequate yearly progress, as defined in the plan of the State under section 1111(b)(2)(B).

''(2) REPORT TO CONGRESS.—Not later than 3 years after the date on which the Secretary implements the initial demonstration projects under subsection (a), the Secretary shall submit to Congress a report regarding the effectiveness of the demonstration projects.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $7,500,000 for fiscal year 2002, and such sums as may be necessary in each of the 7 fiscal years thereafter.

''SEC. 6202. LOSS OF ADMINISTRATIVE FUNDS.

''(a) 2 YEARS OF INSUFFICIENT PROGRESS.—

''(1) REDUCTION.—If the Secretary makes the determinations described in paragraph (2) for 2 consecutive years, the Secretary shall reduce, by not more than 30 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''(2) DETERMINATIONS.—The determinations referred to in paragraph (1) are determinations, made primarily on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, that—

''(A) the State has failed to make adequate yearly progress as defined under section 1111(b)(2) (B) and (D) for all students and for each of the categories of students described in section 1111(b)(2)(B)(v)(II);

''(B) beginning with the 2nd year for which data are available on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics, the State has failed to demonstrate an increase in the achievement of each of the categories of students described in section 1111(b)(2)(B)(v)(II); and

''(C) the State has failed to meet its annual measurable performance objectives, for helping limited English proficient students develop proficiency in English, that are required to be developed under section 3329.

''(b) THREE OR MORE YEARS OF INSUFFICIENT PROGRESS.—If the Secretary makes the determinations described in subsection (a)(2) for a third or subsequent consecutive year, the Secretary shall reduce, by not more than 75 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''(c) SMALL STATES.—For the purpose of carrying out subsection (a)(2) and section 6201(a)(2)(A)(i)(II), with respect to any year for which a small State described in section 1111(c)(2) does not participate in the assessments described in section 1111(c)(2), the Secretary shall use the most recent data from those assessments for that State.

''SEC. 6203. STUDY OF ASSESSMENT COSTS.

''(a) STUDY.—

''(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the costs of conducting student assessments under section 1111.

''(2) CONTENTS.—In conducting the study, the Comptroller General of the United States shall—

''(A) draw on and use the best available data, including cost data from each State that has developed or administered statewide student assessments under section 1111 and cost or pricing data from companies that develop student assessments described in such section;

''(B) determine the aggregate cost for all States to develop the student assessments required under section 1111, and the portion of that cost that is expected to be incurred in each of fiscal years 2002 through 2008;

''(C) determine the aggregate cost for all States to administer the student assessments required under section 1111 and the portion of that cost that is expected to be incurred in each of fiscal years 2002 through 2008; and

''(D) determine the costs and portions described in subparagraphs (B) and (C) for each State, and the factors that may explain variations in the costs and portions among States.

''(b) REPORT.—

''(1) IN GENERAL.—The Comptroller General of the United States shall, not later than May 31, 2002, submit a report containing the results of the study described in subsection (a) to—

''(A) the Committee on Appropriations of the House of Representatives and the Subcommittee on Labor, Health and Human Services, and Education of that Committee;

''(B) the Committee on Appropriations of the Senate and the Subcommittee on Labor, Health and Human Services, and Education of that Committee;

''(C) the Committee on Education and the Workforce of the House of Representatives; and

''(D) the Committee on Health, Education, Labor, and Pensions of the Senate.

''(2) CONTENTS.—The report shall include—

''(A) a thorough description of the methodology employed in conducting the study; and

''(B) the determinations of costs and portions described in subparagraphs (B) through (D) of subsection (a)(2).

''(c) DEFINITION.—In this section, the term 'State' means 1 of the several States of the United States.

''SEC. 6204. GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.

''(a) STATE GRANTS AUTHORIZED.—From amounts appropriated under subsection (c) the Secretary shall award grants to States to enable the States to pay the costs of—

''(1) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act;

''(2) working in voluntary partnerships with other States to develop such assessments and standards; and

''(3) other activities described in this part or related to ensuring accountability for results in the State's public elementary schools or secondary schools, and local educational agencies, such as—

''(A) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

''(B) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

''(b) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—From the amount appropriated to carry out this section for any fiscal year, the Secretary first shall allocate $3,000,000 to each State.

''(2) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

''(3) DEFINITION OF STATE.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

''SEC. 6205. AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.—

''(1) STATE GRANTS AUTHORIZED.—From amounts appropriated under paragraph (3) the Secretary shall award grants to States to enable the States to pay the costs of—

''(A) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act; and

''(B) other activities described in this part or related to ensuring accountability for results in the State's public elementary schools or secondary schools, and local educational agencies, such as—

''(i) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

''(ii) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

''(2) ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—From the amount appropriated to carry out this subsection for any fiscal year, the Secretary shall first allocate $3,000,000 to each State.

''(B) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

''(C) DEFINITION OF STATE.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

''(b) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $110,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(c) EDUCATION AWARDS.—For the purpose of carrying out section 6201, there are authorized

to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART C—STUDENT EDUCATION ENRICHMENT

''SEC. 6301. SHORT TITLE.

''This part may be cited as the 'Student Education Enrichment Demonstration Act'.

''SEC. 6302. PURPOSE.

''The purpose of this part is to establish a demonstration program that provides Federal support to States and local educational agencies to provide high quality summer academic enrichment programs, for public school students who are struggling academically, that are implemented as part of statewide education accountability programs.

''SEC. 6303. DEFINITION.

''In this part, the term 'student' means an elementary school or secondary school student.

''SEC. 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 education accountability programs.

''(b) ELIGIBILITY.—For a State educational agency to be eligible to receive a grant under subsection (a), the State served by 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 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 through the summer academic enrichment programs carried out under this part, which may include specific measurable annual educational goals and objectives relating to—

''(i) increased student academic achievement;

''(ii) decreased student dropout rates; or

''(iii) such other factors as the State educational agency may choose to measure; and

''(B) information on 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;

''(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.

''SEC. 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 agencies for the programs;

''(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 agencies for the programs;

''(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 by such information as the Secretary or the State may require.

''(2) CONTENTS.—The State shall require that such an application shall include, to the greatest extent practicable—

''(A) information that—

''(i) demonstrates that the local educational agency will carry out a summer academic enrichment program funded under this section—

''(I) that provides intensive high quality programs that are aligned with challenging State content and student performance standards and that are focused on reinforcing and boosting the core academic skills and knowledge of students who are struggling academically, as determined by the State;

''(II) that focuses on accelerated learning so that students served through the program will master the high level skills and knowledge needed to meet the highest State standards or to perform at high levels on all State assessments required under section 1111;

''(III) that is based on, and incorporates best practices developed from, research-based enrichment methods and practices;

''(IV) that has a proposed curriculum that is directly aligned with State content and student performance standards;

''(V) for which only teachers who are certified and licensed, and are otherwise fully qualified teachers, provide academic instruction to students enrolled in the program;

''(VI) that offers to staff in the program professional development and technical assistance that are aligned with the approved curriculum for the program; and

''(VII) that incorporates a parental involvement component that seeks to involve parents in the program's topics and students' daily activities;

''(ii) may include—

''(I) the proposed curriculum for the summer academic enrichment program;

''(II) the local educational agency's plan for recruiting highly qualified and highly effective teachers to participate in the program; and

''(III) a schedule for the program that indicates that the program is of sufficient duration and intensity to achieve the State's goals and objectives described in section 6304(c)(2)(A); and

''(iii) 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 upon completion of the summer academic enrichment program;

''(B) an outline indicating how the local educational agency will utilize other applicable Federal, State, local, or other funds, other than funds made available through the grant, to support the program;

''(C) an explanation of how the local educational agency will ensure that only highly qualified personnel who volunteer to work with the type of student targeted for the program will work with the program and that the instruction provided through the program will be provided by qualified teachers;

''(D) an explanation of the types of intensive training or professional development, 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 will have contact for instructional purposes (such as the hours per day and days per week of that contact, and the total length of the program);

''(G) an explanation of the proposed student/teacher ratio for the program, analyzed by grade level;

''(H) an explanation of the grade levels that will be served by the program;

''(I) an explanation of the approximate cost per student for the program;

''(J) 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 State educational agency 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. 6306. SUPPLEMENT NOT SUPPLANT.

''Funds appropriated pursuant to the authority of this part shall be used to supplement and not supplant other Federal, State, and local public or private funds expended to provide academic enrichment programs.

"SEC. 6307. REPORTS.

''(a) STATE REPORTS.—Each State educational agency that receives a grant under this part shall annually prepare and submit to the Secretary a report. The report shall describe—

''(1) the method 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 6304(c)(2)(A) for the State as a whole and the extent to which the State met each of the goals and objectives in the year preceding the submission of the report;

''(3) the specific measurable goals and objectives described in section 6305(b)(2)(L) for each of the local educational agencies receiving a grant under this part in the State and the extent to which each of the agencies met each of the goals and objectives in that preceding year;

''(4) the steps that the State will take to ensure that any such local educational agency who did not meet the goals and objectives in that year will 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 of such an agency and redistributing the grant funds to existing or new programs;

''(5) how eligible local educational agencies and schools used funds provided by the State educational agency under this part; and

''(6) the degree to which progress has been made toward meeting the goals and objectives described in section 6304(c)(2)(A).

''(b) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to Congress a report. The report shall describe—

''(1) the methods the State educational agencies used to make grants to eligible local educational agencies and to provide assistance to schools under this part;

''(2) how eligible local educational agencies and schools used funds provided under this part; and

''(3) the degree to which progress has been made toward meeting the goals and objectives described in sections 6304(c)(2)(A) and 6305(b)(2)(L).

''(c) GOVERNMENT ACCOUNTING OFFICE REPORT TO CONGRESS.—The Comptroller General of the United States shall conduct a study regarding the demonstration program carried out under this part and the impact of the program on student achievement. The Comptroller General shall prepare and submit to Congress a report containing the results of the study.

"SEC. 6308. ADMINISTRATION.

''The Secretary shall develop program guidelines for and oversee the demonstration program carried out under this part.

"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 3 years after 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 parents with notice of and opportunity to make informed decisions regarding the collection of information for commercial purposes occurring in their children's classrooms.

"SEC. 6402. COMMERCIALIZATION POLICIES AND PRIVACY FOR STUDENTS.

''(a) PROHIBITION.—Except as provided in subsection (b), no State educational agency or local educational agency that is a recipient of funds under this Act may—

''(1) disclose data or information the agency gathered from a student to a person or entity that seeks disclosure of the data or information for the purpose of benefiting the person or entity's commercial interests; or

''(2) permit a person or entity to gather from a student, or assist a person or entity in gathering from a student, data or information, if the purpose of gathering the data or information is to benefit the commercial interests of the person or entity.

''(b) PARENTAL CONSENT.—

''(1) DISCLOSURE.—A State educational agency or local educational agency that is a recipient of funds under this Act may disclose data or information under subsection (a)(1) if the agency, prior to the disclosure—

''(A) explains to the student's parent, in writing, what data or information will be disclosed, to which person or entity the data or information will be disclosed, the amount of class time, if any, that will be consumed by the disclosure, and how the person or entity will use the data or information; and

''(B) obtains the parent's written permission for the disclosure.

''(2) GATHERING.—A State educational agency or local educational agency that is a recipient of funds under this Act may permit or assist a person or entity with the gathering of data or information under subsection (a)(2) if the agency, prior to the gathering—

''(A) explains to the student's parent, in writing, what data or information will be gathered including whether any of the information is personally identifiable, which person or entity will gather the data or information, the amount of class time if any, that will be consumed by the gathering, and how the person or entity will use the data or information; and

''(B) obtains the parent's written permission for the gathering.

''(c) DEFINITIONS.—In this part:

''(1) STUDENT.—The term 'student' means a student under the age of 18.

''(2) COMMERCIAL INTEREST.—The term 'commercial interest' does not include the interest of a person or entity in developing, evaluating, or providing educational products or services for or to students or educational institutions, such as—

''(A) college and other post-secondary education recruiting;

''(B) book clubs and other programs providing access to low cost books or other related literary products;

''(C) curriculum and instructional materials used by elementary and secondary schools to teach if—

''(i) the information is not used to sell or advertise another product;

''(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(iii) the curriculum and instructional materials are used in accordance with applicable Federal, State, and local policies, if any; and

''(D) the development and administration of tests and assessments 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;

''(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(iii) the tests are conducted in accordance with applicable Federal, State, and local policies, if any.

''(d) LOCALLY DEVELOPED EXCEPTIONS.—A local educational agency, in consultation with parents, may develop appropriate exceptions to the consent requirements contained in this part if—

''(1) the information to be collected is not personally identifiable;

''(2) the local educational agency provides written notice to all parents of its policy regarding data or information collection activities for commercial purposes; 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;

''(C) the amount of class time, 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.

''(e) FUNDING.—A State educational agency or local educational agency may use funds provided under subpart 4 of part B of title V to enhance parental involvement in areas affecting children's in-school privacy.

''(f) TECHNICAL ASSISTANCE.—Upon the request of a State educational agency or local educational agency, the Secretary shall provide technical assistance to such an agency concerning compliance with this part.

''(g) ENFORCEMENT.—The Secretary shall take appropriate actions to enforce, and address violations of, this section, in accordance with this chapter.

''(h) OFFICE, FUNCTIONS.—The Secretary shall designate an office to enforce this section and to provide technical assistance.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).''.

SEC. 602. GUIDELINES FOR STUDENT PRIVACY.

(a) DEVELOPMENT OF STUDENT PRIVACY GUIDELINES.—A State or local educational agency that receives funds under this Act shall develop and adopt guidelines regarding arrangements to protect student privacy that are entered into by the agency with public and private entities that are not schools.

(b) NOTIFICATION OF PARENTS OF PRIVACY GUIDELINES.—The guidelines developed by an educational agency under subsection (a) shall provide for a reasonable notice of the adoption of such guidelines to be given, by the agency or a school under the agency's supervision, to the parents and guardians of students under the jurisdiction of such agency or school. Such notice shall be provided at least annually and within a reasonable period of time after any change in such guidelines.

(c) EXCEPTIONS.—This section shall not apply to the development, evaluation, or provision of educational products or services for or to students or educational institutions, such as the following:

(1) College or other post-secondary education recruitment or military recruitment.

(2) Book clubs, magazines, and programs providing access to other literary products.

(3) Curriculum and instructional materials used by elementary and secondary schools to teach.

(4) The development and administration of tests and assessments 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.

(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 Provisions 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 subpart 4 of 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'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meanings given those terms in section 3 of the Elementary and Secondary Education Act of 1965.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

SEC. 701. PROGRAMS.

Title VII (20 U.S.C. 7401 et seq.) is amended to read as follows:

''TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

''PART A—INDIAN EDUCATION

''SEC. 7101. FINDINGS.

''Congress finds that—

''(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

''(A) are based on high-quality, internationally competitive content standards and student performance standards, and build on Indian culture and the Indian community;

''(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve the standards described in subparagraph (A); and

''(C) meet the unique educational and culturally related academic needs of American Indian and Alaska Native students;

''(2) since the date of enactment of the Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

''(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

''(4) the dropout rate for Indian students is unacceptably high: 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

''(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

''(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

''SEC. 7102. PURPOSE.

''(a) PURPOSE.—The purpose of this part is to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State performance standards as are expected for all students.

''(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

''(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

''(2) the education of Indian children and adults;

''(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

''(4) research, evaluation, data collection, and technical assistance.

''Subpart 1—Formula Grants to Local Educational Agencies

''SEC. 7111. PURPOSE.

''The purpose of this subpart is to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

''(1) are based on challenging State content standards and State student performance standards that are used for all students; and

''(2) are designed to assist Indian students to meet those standards.

''SEC. 7112. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

''(a) IN GENERAL.—The Secretary may make grants to local educational agencies and Indian tribes in accordance with this section.

''(b) LOCAL EDUCATIONAL AGENCIES.—

''(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children who are eligible under section 7117, and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

''(A) was at least 10; or

''(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

''(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

''(c) INDIAN TRIBES.—

''(1) IN GENERAL.—If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a parent committee under section 7114(c)(4), an Indian tribe that represents not less than ½ of the eligible Indian children who are served by such local educational agency may apply for such grant by submitting an application in accordance with section 7114.

''(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe shall not be subject to section 7114(c)(4) (relating to a parent committee), section 7118(c) (relating to maintenance of effort), or section 7119 (relating to State review of applications).

''SEC. 7113. AMOUNT OF GRANTS.

''(a) AMOUNT OF GRANT AWARDS.—

''(1) IN GENERAL.—Except as provided in subsections (c) and (d), for purposes of making grants under this subpart the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

''(A) the number of Indian children who are eligible under section 7117 and served by such agency; and

''(B) the greater of—

''(i) the average per-pupil expenditure of the State in which such agency is located; or

''(ii) 80 percent of the average per-pupil expenditure of all the States.

''(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) or subsection (b) in accordance with subsection (c).

''(b) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—

''(1) IN GENERAL.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), for purposes of making grants under this subpart the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

''(A) the total number of Indian children enrolled in schools that are operated by—

''(i) the Bureau of Indian Affairs; or

''(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

''(B) the greater of—

''(i) the average per-pupil expenditure of the State in which the school is located; or

''(ii) 80 percent of the average per-pupil expenditure of all the States.

''(2) SPECIAL RULE.—Any school described in paragraph (1) may apply for an allocation under this subpart by submitting an application in accordance with section 7114. The Secretary shall treat the school as if the school were a local educational agency for purposes of this subpart, except that any such school shall not be subject to section 7114(c)(4), 7118(c), or 7119.

''(c) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 7162(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a) and for the Secretary of the Interior under subsection (b), each of those amounts shall be ratably reduced.

''(d) MINIMUM GRANT.—

''(1) IN GENERAL.—Notwithstanding subsection (c), a local educational agency (including an Indian tribe as authorized under section 7112(b)) that is eligible for a grant under section 7112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (b), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

''(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

''(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grant recipients if the Secretary determines such increase is necessary to ensure quality programs.

''(e) DEFINITION.—In this section, the term 'average per-pupil expenditure', for a State, means an amount equal to—

''(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

''(2) the aggregate number of children who were included in average daily attendance and for whom such agencies provided free public education during such preceding fiscal year.

''SEC. 7114. APPLICATIONS.

''(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner,

and containing such information as the Secretary may reasonably require.

''(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

''(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

''(2)(A) is consistent with the State and local plans submitted under other provisions of this Act; and

''(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards adopted under title I for all children;

''(3) explains how Federal, State, and local programs, especially programs carried out under title I, will meet the needs of such students;

''(4) demonstrates how funds made available under this subpart will be used for activities described in section 7115;

''(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

''(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

''(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

''(6) describes how the local educational agency—

''(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

''(B) will provide the results of each assessment referred to in subparagraph (A) to—

''(i) the committee of parents described in subsection (c)(4); and

''(ii) the community served by the local educational agency; and

''(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

''(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

''(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

''(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

''(A) carry out the functions of the Secretary under this subpart; and

''(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

''(3) the program for which assistance is sought—

''(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

''(B) will use the best available talents and resources, including individuals from the Indian community; and

''(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

''(4) the local educational agency developed the program with the participation and written approval of a committee—

''(A) that is composed of, and selected by—

''(i) parents of Indian children in the local educational agency's schools and teachers in the schools; and

''(ii) if appropriate, Indian students attending secondary schools of the agency;

''(B) a majority of whose members are parents of Indian children;

''(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

''(D) with respect to an application describing a schoolwide program carried out in accordance with section 7115(c), that has—

''(i) reviewed in a timely fashion the program; and

''(ii) determined that the program will enhance the availability of culturally related activities for American Indian and Alaska Native students; and

''(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

"SEC. 7115. AUTHORIZED SERVICES AND ACTIVITIES.

''(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7111, for services and activities that—

''(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7114;

''(2) are designed with special regard for the language and cultural needs of the Indian students; and

''(3) supplement and enrich the regular school program of such agency.

''(b) PARTICULAR SERVICES AND ACTIVITIES.—The services and activities referred to in subsection (a) may include—

''(1) culturally related activities that support the program described in the application submitted by the local educational agency;

''(2) early childhood and family programs that emphasize school readiness;

''(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

''(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

''(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by Public Law 103–239 and Public Law 88–210, including programs for tech-prep, mentoring, and apprenticeship activities;

''(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

''(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 7111;

''(8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

''(9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;

''(10) activities to promote coordination and collaboration between tribal, Federal, and State public schools in areas that will improve American Indian and Alaska Native student achievement; and

''(11) family literacy services.

''(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

''(1) the committee composed of parents established pursuant to section 7114(c)(4) approves the use of the funds for the schoolwide program; and

''(2) the schoolwide program is consistent with the purpose described in section 7111.

''(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to a local educational agency through a grant made under this subpart for a fiscal year may be used to pay for administrative costs.

"SEC. 7116. INTEGRATION OF SERVICES AUTHORIZED.

''(a) PLAN.—An entity receiving funds under this subpart may submit a plan to the Secretary for a demonstration project for the integration of education and related services provided to Indian students.

''(b) CONSOLIDATION OF PROGRAMS.—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the applicant, shall authorize the applicant to consolidate, in accordance with such plan, the federally funded education and related services programs of the applicant and the agencies, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

''(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (b) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved exclusively to serve Indian children under any program, for which the applicant is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services for Indian students.

''(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), the plan shall—

''(1) identify the programs or funding sources to be consolidated;

''(2) be consistent with the objectives of this section authorizing the program services to be integrated in a demonstration project;

''(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

''(4) describe the way in which the services are to be integrated and delivered and the results expected from the plan;

''(5) identify the projected expenditures under the plan in a single budget;

''(6) identify the State, tribal, or local agencies to be involved in the delivery of the services integrated under the plan;

''(7) identify any statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement the plan;

''(8) set forth measures of student achievement and performance goals designed to be met within a specified period of time for activities provided under the plan; and

''(9) be approved by a parent committee formed in accordance with section 7114(c)(4), if

such a committee exists, in consultation with the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate.

''(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the head of each Federal agency providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal regulations, policies, or procedures necessary to enable the applicant to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected agency shall have the authority to waive, for the applicant, any regulation, policy, or procedure promulgated by that agency that has been so identified by the applicant or agency, unless the head of the affected agency determines that such a waiver is inconsistent with the objectives of this subpart or the provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

''(f) PLAN APPROVAL.—Within 90 days after the receipt of an applicant's plan by the Secretary under subsection (a), the Secretary shall inform the applicant, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the applicant shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

''(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—Not later than 180 days after the date of enactment of the Better Education for Students and Teachers Act, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal agency identified by the Secretary of Education, shall enter into an interagency memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency for a demonstration project authorized under this section shall be—

''(1) the Department of the Interior, in the case of an applicant that is a contract or grant school, as defined in section 1146 of the Education Amendments of 1978; or

''(2) the Department of Education, in the case of any other applicant.

''(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency for a demonstration project shall include—

''(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

''(2) the use of a single report format related to the projected expenditures for the individual project, which shall be used by an eligible entity to report on all project expenditures;

''(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

''(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

''(i) REPORT REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall develop, consistent with the requirements of this section, a single report format for the reports described in subsection (h).

''(2) REPORT INFORMATION.—Such report format shall require that the reports shall—

''(A) contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in the entity's approved plan, including the demonstration of student achievement; and

''(B) provide assurances to the Secretary of Education and the Secretary of the Interior that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

''(3) RECORD INFORMATION.—The Secretary shall require that records maintained at the local level on the programs consolidated for the project shall contain the information and provide the assurances described in paragraph (2).

''(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

''(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

''(l) ADMINISTRATION OF FUNDS.—

''(1) IN GENERAL.—An eligible entity shall administer the program funds for the consolidated programs in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds that shall be allocated to such program.

''(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

''(m) OVERAGE.—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

''(n) FISCAL ACCOUNTABILITY.—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill responsibilities for safeguarding Federal funds pursuant to chapter 75 of title 31, United States Code.

''(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

''(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

''(2) FINAL REPORT.—Not later than 5 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

''(p) DEFINITION.—In this section, the term 'Secretary' means—

''(1) the Secretary of the Interior, in the case of an applicant that is a contract or grant school, as defined in section 1146 of the Education Amendments of 1978; or

''(2) the Secretary of Education, in the case of any other applicant.

''SEC. 7117. STUDENT ELIGIBILITY FORMS.

''(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b).

''(b) FORMS.—The form described in subsection (a) shall include—

''(1) either—

''(A)(i) the name of the tribe or band of Indians (as defined in section 7161(3)) with respect to which the child claims membership;

''(ii) the enrollment number establishing the membership of the child (if readily available); and

''(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

''(B) if the child is not a member of the tribe or band of Indians (as so defined), the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership rolls, of any parent or grandparent of the child from whom the child claims eligibility under this subpart;

''(2) a statement of whether the tribe or band of Indians (as so defined) with respect to which the child, or parent or grandparent of the child, claims membership is federally recognized;

''(3) the name and address of the parent or legal guardian of the child;

''(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

''(5) any other information that the Secretary considers necessary to provide an accurate program profile.

''(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 7161.

''(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–86 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

''(1) to establish eligibility under this subpart; and

''(2) to meet the requirements of subsection (a).

''(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band.

''(f) MONITORING AND EVALUATION REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW.—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the local educational agencies that are recipients of grants under this subpart. The sampling conducted under this paragraph shall take into account the size of such a local educational agency and the geographic location of such agency.

''(B) EXCEPTION.—A local educational agency may not be held liable to the United States or be subject to any penalty by reason of the findings

of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

''(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

''(A) be ineligible to apply for any other grant under this subpart; and

''(B) be liable to the United States for any funds from the grant that have not been expended.

''(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant award under section 7113.

''(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, the Secretary, in computing the amount of a grant award under section 7113 to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, shall use only 1 of the following, as selected by the school:

''(1) A count, certified by the Bureau, of the number of students in the school.

''(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

''(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in computing the amount of a local educational agency's grant award under section 7113 (other than in the case described in subsection (g)(1)), the local educational agency shall—

''(1) establish a date on, or a period not longer than 31 consecutive days during which, the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7114; and

''(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

"SEC. 7118. PAYMENTS.

''(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount computed under section 7113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

''(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

''(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

''(1) IN GENERAL.—The Secretary may not pay a local educational agency in a State the full amount of a grant award computed under section 7113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

''(2) FAILURE.—If, for any fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort at the level specified in paragraph (1), the Secretary shall—

''(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of the failure to maintain the fiscal effort at such level; and

''(B) not use the reduced amount of the combined fiscal effort for the year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) during the fiscal year for which the determination is made.

''(3) WAIVER.—

''(A) IN GENERAL.—The Secretary may waive the requirement of paragraph (1) for a local educational agency, for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

''(B) FUTURE DETERMINATIONS.—The Secretary shall not use the reduced amount of the combined fiscal effort for the year for which the waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver during the fiscal year for which the waiver is granted.

''(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

''(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

''(2) otherwise become available for reallocation under this subpart.

"SEC. 7119. STATE EDUCATIONAL AGENCY REVIEW.

''Before submitting an application to the Secretary under section 7114, a local educational agency shall submit the application to the State educational agency, which may comment on the application. If the State educational agency comments on the application, the agency shall comment on each such application submitted by a local educational agency in the State and shall provide the comment to the appropriate local educational agency, with an opportunity to respond.

"Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

"SEC. 7121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

''(a) PURPOSE.—

''(1) IN GENERAL.—The purpose of this section is to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

''(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

''(A) other programs funded under this Act; and

''(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

''(b) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education) or a consortium of such entities.

''(c) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

''(A) innovative programs related to the educational needs of educationally disadvantaged children;

''(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in 1 or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

''(C) bilingual and bicultural programs and projects;

''(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

''(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation for Indian children;

''(F) comprehensive guidance, counseling, and testing services;

''(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

''(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

''(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

''(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

''(K) family literacy services; or

''(L) other services that meet the purpose described in subsection (a)(1).

''(2) PRE-SERVICE OR IN-SERVICE TRAINING.—Pre-service or in-service training of professional and paraprofessional personnel may be a part of any program assisted under this section.

''(d) GRANT REQUIREMENTS AND APPLICATIONS.—

''(1) GRANT REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c). The Secretary shall make the grants for periods of not more than 5 years.

''(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining 2 or more of the activities described in subsection (c) over a period of more than 1 year.

''(C) PROGRESS.—The Secretary shall make a payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant period only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

''(2) DISSEMINATION GRANTS.—

''(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

''(B) DETERMINATION.—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

''(i) has been adequately reviewed;

''(ii) has demonstrated educational merit; and

''(iii) can be replicated.

''(3) APPLICATION.—

''(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

''(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

''(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

''(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

''(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, which may include a program that has been modified to be culturally appropriate for students who will be served;

''(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

''(v) such other assurances and information as the Secretary may reasonably require.

''(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grant recipient under this subpart for any fiscal year may be used to pay for administrative costs.

''SEC. 7122. PROFESSIONAL DEVELOPMENT.

''(a) PURPOSES.—The purposes of this section are—

''(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

''(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

''(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

''(b) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means a consortium of—

''(1) a State or local educational agency; and

''(2) an institution of higher education (including an Indian institution of higher education) or an Indian tribe or organization.

''(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities with applications approved under subsection (e) to enable such entities to carry out the activities described in subsection (d).

''(d) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—Grant funds made available under subsection (c) shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support.

''(2) SPECIAL RULES.—

''(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant awarded under subsection (c) may be in-service or pre-service training.

''(B) PROGRAM.—For individuals who are being trained to enter any field other than education, the training received pursuant to a grant awarded under subsection (c) shall be in a program that results in a graduate degree.

''(e) APPLICATION.—Each eligible entity desiring a grant under subsection (c) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

''(f) SPECIAL RULE.—In awarding grants under subsection (c), the Secretary—

''(1) shall consider the prior performance of an eligible entity; and

''(2) may not limit eligibility to receive a grant under subsection (c) on the basis of—

''(A) the number of previous grants the Secretary has awarded such entity; or

''(B) the length of any period during which such entity received such grants.

''(g) GRANT PERIOD.—Each grant awarded under subsection (c) shall be awarded for a program of activities of not more than 5 years.

''(h) SERVICE OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives pre-service training pursuant to a grant awarded under subsection (c)—

''(A) perform work—

''(i) related to the training received under this section; and

''(ii) that benefits Indian people; or

''(B) repay all or a prorated part of the assistance received for the training.

''(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of the pre-service training shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

''(i) INSERVICE TRAINING FOR TEACHERS OF INDIAN CHILDREN.—

''(1) GRANTS AUTHORIZED.—In addition to the grants authorized by subsection (c), the Secretary may make grants to eligible consortia for the provision of high quality in-service training. The Secretary may make such a grant to—

''(A) a consortium of a tribal college and an institution of higher education that awards a degree in education; or

''(B) a consortium of—

''(i) a tribal college;

''(ii) an institution of higher education that awards a degree in education; and

''(iii) 1 or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

''(2) USE OF FUNDS.—

''(A) IN-SERVICE TRAINING.—A consortium that receives a grant under paragraph (1) shall use the grant funds only to provide high quality in-service training to teachers, including teachers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

''(B) COMPONENTS.—The training described in subparagraph (A) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

''(3) PREFERENCE FOR INDIAN APPLICANTS.—In applying section 7153 to this subsection, the Secretary shall give a preference to any consortium that includes 1 or more of the entities described in that section.

''SEC. 7123. FELLOWSHIPS FOR INDIAN STUDENTS.

''(a) FELLOWSHIPS.—

''(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

''(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

''(A) of not more than 4 academic years; and

''(B) that leads—

''(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, or a related field; or

''(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

''(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

''(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which such a fellowship recipient is pursuing a course of study, in lieu of tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to such recipient.

''(d) SPECIAL RULES.—

''(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the first fellowship.

''(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

''(A) the amount of the funding for the fellowship; and

''(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

''(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

''(e) SERVICE OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

''(A) perform work—

''(i) related to the training for which the individual receives the assistance under this section; and

''(ii) that benefits Indian people; or

''(B) repay all or a prorated portion of such assistance.

''(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

''(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

''SEC. 7124. GIFTED AND TALENTED INDIAN STUDENTS.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

''(1) establish 2 centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

''(2) support demonstration projects described in subsection (c).

''(b) ELIGIBLE ENTITIES.—The Secretary shall make grants, or enter into contracts, for the activities described in subsection (a), to or with—

''(1) 2 tribally controlled community colleges that—

''(A) are eligible for funding under the Tribally Controlled College or University Assistance Act of 1978; and

''(B) are fully accredited; or

''(2) if the Secretary does not receive applications that the Secretary determines to be approvable from 2 colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available through the grants made, or contracts entered into, by the Secretary under subsection (b) shall be used for—

''(A) the establishment of centers described in subsection (a); and

''(B) carrying out demonstration projects designed to—

''(i) address the special needs of Indian students in elementary schools and secondary schools who are gifted and talented; and

''(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

''(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (b) to carry out a demonstration project under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project.

''(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (b) may include—

''(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

''(i) identifying the emotional and psychosocial needs of such students; and

''(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

''(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines hold a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including—

''(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

''(ii) carrying out mentoring and apprenticeship programs;

''(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

''(D) the use of public television in meeting the special educational needs of such gifted and talented children;

''(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

''(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children as are needed to enable such children to benefit from the project.

''(4) APPLICATION.—Each entity desiring a grant or contract under subsection (b) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

''(d) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (referred to individually in this section as a 'Bureau school') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

''(A) gifted and talented students;

''(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

''(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

''(D) mathematics and science education.

''(2) APPLICATIONS.—Each Bureau school desiring a grant to conduct 1 or more of the activities described in paragraph (1) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

''(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

''(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

''(5) GRANT PERIOD.—Subject to the availability of appropriations, a grant awarded under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

''(6) DISSEMINATION.—

''(A) COOPERATIVE EFFORTS.—The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

''(B) REPORT.—The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

''(7) EVALUATION COSTS.—

''(A) DIVISION.—The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under subsection (a).

''(B) GRANTS AND CONTRACTS.—If no funds are provided under subsection (b) for—

''(i) the evaluation of activities assisted under paragraph (1);

''(ii) technical assistance and coordination with respect to such activities; or

''(iii) the dissemination of the evaluations referred to in clause (i),

the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

''(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

''SEC. 7125. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

''(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

''(2) develop education codes for schools within the territorial jurisdiction of the tribe;

''(3) provide support services and technical assistance to schools serving children of the tribe; and

''(4) perform child-find screening services for the preschool-aged children of the tribe to—

''(A) ensure placement in appropriate educational facilities; and

''(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

''(b) PERIOD OF GRANT.—Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

''(c) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

''(2) CONTENTS.—Each application described in paragraph (1) shall contain—

''(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

''(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

''(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

''(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

''(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

''(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

''(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Education Amendments of 1978.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Education to carry out this section $3,000,000 for each of fiscal years 2002 through 2008.

''Subpart 3—Special Programs Relating to Adult Education for Indians

''SEC. 7131. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

''(a) IN GENERAL.—The Secretary shall make grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

''(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

''(2) to assist in the establishment and operation of programs that are designed to stimulate—

''(A) the provision of basic literacy opportunities for all nonliterate Indian adults; and

''(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

''(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

''(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

''(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

''(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

''(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

''(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

''(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

''(d) APPLICATIONS.—

''(1) IN GENERAL.—Each entity desiring a grant or contract under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

''(2) CONTENTS.—Each application described in paragraph (1) shall contain—

''(A) a statement describing the activities to be conducted and the objectives to be achieved under the grant or contract; and

''(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant or contract are achieved.

''(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates that—

''(A) there has been adequate participation, by the individuals to be served and the appropriate tribal communities, in the planning and development of the activities to be assisted; and

''(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

''(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

''(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.

''Subpart 4—National Research Activities

''SEC. 7141. NATIONAL ACTIVITIES.

''(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 7162(b) for each fiscal year to—

''(1) conduct research related to effective approaches for the education of Indian children and adults;

''(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

''(3) collect and analyze data on the educational status and needs of Indians; and

''(4) carry out other activities that are consistent with the purpose of this part.

''(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

''(c) COORDINATION.—Research activities supported under this section—

''(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office of Educational Research and Improvement; and

''(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

''(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to an entity through a grant, contract, or agreement made or entered into under this subpart for a fiscal year may be used to pay for administrative costs.

''Subpart 5—Federal Administration

''SEC. 7151. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

''(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (referred to in this section as the 'Council'), which shall—

''(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and Indian organizations; and

''(2) represent different geographic areas of the United States.

''(b) DUTIES.—The Council shall—

''(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

''(A) with respect to which the Secretary has jurisdiction; and

''(B)(i) that includes Indian children or adults as participants; or

''(ii) that may benefit Indian children or adults;

''(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

''(3) prepare and submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

''(A) any recommendations that the Council considers to be appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

''(B) recommendations concerning the funding of any program described in subparagraph (A).

''SEC. 7152. PEER REVIEW.

''The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4.

''SEC. 7153. PREFERENCE FOR INDIAN APPLICANTS.

''In making grants and entering into contracts or cooperative agreements under subpart 2, 3, or 4, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

''SEC. 7154. MINIMUM GRANT CRITERIA.

''The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or 3 unless the application is for a grant, contract, or cooperative agreement that is—

''(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

''(2) based on relevant research findings.

''Subpart 6—Definitions; Authorizations of Appropriations

''SEC. 7161. DEFINITIONS.

''In this part:

''(1) ADULT.—The term 'adult' means an individual who—

''(A) has attained age 16; or

''(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

''(2) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

''(A) provided at public expense, under public supervision and direction, and without tuition charge; and

''(B) provided as elementary or secondary education in the applicable State or to preschool children.

''(3) INDIAN.—The term 'Indian' means an individual who is—

''(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

''(i) any tribe or band terminated since 1940; and

''(ii) any tribe or band recognized by the State in which the tribe or band resides;

''(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

''(C) an individual who is considered by the Secretary of the Interior to be an Indian for any purpose;

''(D) an Eskimo, Aleut, or other Alaska Native (as defined in section 7306); or

''(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the 'Improving America's Schools Act of 1994' (108 Stat. 3518).

''SEC. 7162. AUTHORIZATIONS OF APPROPRIATIONS.

''(a) SUBPART 1.—There are authorized to be appropriated to the Secretary of Education to carry out subpart 1 $93,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) SUBPARTS 2 THROUGH 4.—There are authorized to be appropriated to the Secretary of Education to carry out subparts 2, 3, and 4 $20,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART B—NATIVE HAWAIIAN EDUCATION

''SEC. 7201. SHORT TITLE.

''This part may be cited as the 'Native Hawaiian Education Act'.

''SEC. 7202. FINDINGS.

''Congress finds the following:

''(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

''(2) At the time of the arrival of the first nonindigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

''(3) A unified monarchal government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

''(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

''(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and

armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

''(6) In 1898, the joint resolution entitled 'Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from the lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

''(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

''(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

''(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.'.

''(10) Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

''(11) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', the United States also ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

''(12) The United States has recognized and reaffirmed that—

''(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

''(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

''(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawai'i;

''(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

''(E) the aboriginal, indigenous people of the United States have—

''(i) a continuing right to autonomy in their internal affairs; and

''(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

''(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

''(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

''(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

''(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

''(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

''(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

''(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

''(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

''(H) the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

''(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

''(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their unique cultural situation, such as different learning styles and low self-image.

''(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

''(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

''(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

''(i) late or no prenatal care;

''(ii) high rates of births by Native Hawaiian women who are unmarried; and

''(iii) high rates of births to teenage parents;

''(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

''(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

''(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

''(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

''(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed 4 or more years of college;

''(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

''(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

''(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawai'i; and

''(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

''(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

''(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawai'i.

''(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

''(19) Following the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawai'i, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo nō ke ola; I ka 'ōlelo nō ka make. In the language rests life; In the language rests death.'.

''(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

''(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

''(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language;

''(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system; and

''(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program.

''SEC. 7203. PURPOSES.

''The purposes of this part are to—

''(1) authorize and develop innovative educational programs to assist Native Hawaiians;

''(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

''(3) supplement and expand programs and authorities in the area of education to further the purposes of this title; and

''(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

''SEC. 7204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

''(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (referred to in this part as the 'Education Council').

''(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 21 members, unless otherwise determined by a majority of the council.

''(c) CONDITIONS AND TERMS.—

''(1) CONDITIONS.—At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawai'i Office of Hawaiian Affairs shall serve as a member of the Education Council.

''(2) APPOINTMENTS.—The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

''(3) TERMS.—Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

''(4) COUNCIL DETERMINATIONS.—Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

''(d) NATIVE HAWAIIAN EDUCATION COUNCIL GRANT.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

''(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part;

''(2) assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education;

''(3) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity; and

''(4) make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

''(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

''(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i), to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

''(2) ANNUAL REPORT.—The Education Council shall prepare and submit to the Secretary an annual report on the Education Council's activities.

''(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary determines to be appropriate, in a manner that supports the distinct needs of each island council.

''(f) ESTABLISHMENT OF ISLAND COUNCILS.—

''(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (referred to individually in this part as an 'island council') for the following islands:

''(A) Hawai'i.

''(B) Maui.

''(C) Moloka'i.

''(D) Lana'i.

''(E) O'ahu.

''(F) Kaua'i.

''(G) Ni'ihau.

''(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of individuals concerned with the educational needs of all age groups, from children in preschool through adults. At least ¾ of the members of each island council shall be Native Hawaiians.

''(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often than 4 times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

''(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for service on the Education Council and each island council, respectively.

''(i) REPORT.—Not later than 4 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $300,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years. Funds appropriated under this subsection shall remain available until expended.

''SEC. 7205. PROGRAM AUTHORIZED.

''(a) GENERAL AUTHORITY.—

''(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make direct grants to, or enter into contracts with—

''(A) Native Hawaiian educational organizations;

''(B) Native Hawaiian community-based organizations;

''(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

''(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C),

to carry out programs that meet the purposes of this part.

''(2) PRIORITIES.—In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

''(A) beginning reading and literacy among students in kindergarten through third grade;

''(B) the needs of at-risk children and youth;

''(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

''(D) the use of the Hawaiian language in instruction.

''(3) AUTHORIZED ACTIVITIES.—Activities provided through programs carried out under this part may include—

''(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

''(B) the operation of family-based education centers that provide such services as—

''(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

''(ii) preschool programs for Native Hawaiians; and

''(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

''(C) activities that enhance beginning reading and literacy in either the Hawaiian or the English language among Native Hawaiian students in kindergarten through third grade and assistance in addressing the distinct features of combined English and Hawaiian literacy for Hawaiian speakers in fifth and sixth grade;

''(D) activities to meet the special needs of Native Hawaiian students with disabilities, including—

''(i) the identification of such students and their needs;

''(ii) the provision of support services to the families of those students; and

''(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act;

''(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

''(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

''(ii) activities that involve the parents of those students in a manner designed to assist in the students' educational progress;

''(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

''(G) professional development activities for educators, including—

''(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

''(ii) in-service programs to improve the ability of teachers who teach in schools with concentrations of Native Hawaiian students to meet those students' unique needs; and

''(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

''(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and services, including—

''(i) preschool programs;

''(ii) after-school programs; and

''(iii) vocational and adult education programs;

''(I) activities to enable Native Hawaiians to enter and complete programs of postsecondary education, including—

''(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

''(ii) family literacy services;

''(iii) counseling and support services for students receiving scholarship assistance;

''(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

''(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

''(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

''(K) other research and evaluation activities related to programs carried out under this part;

''(L) construction, renovation, and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body; and

''(M) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

''(4) SPECIAL RULE AND CONDITIONS.—

''(A) INSTITUTIONS OUTSIDE HAWAII.—The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawai'i from receiving a scholarship pursuant to paragraph (3)(I).

''(B) SCHOLARSHIP CONDITIONS.—The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

''(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grant recipient under this section for any fiscal year may be used for administrative purposes.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $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 subsection shall remain available until expended.

''SEC. 7206. ADMINISTRATIVE PROVISIONS.

''(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

''(b) SPECIAL RULE.—Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

''SEC. 7207. DEFINITIONS.

''In this part:

''(1) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

''(A) a citizen of the United States; and

''(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

''(i) genealogical records;

''(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification; or

''(iii) certified birth records.

''(2) NATIVE HAWAIIAN COMMUNITY-BASED ORGANIZATION.—The term 'Native Hawaiian community-based organization' means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

''(3) NATIVE HAWAIIAN EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian educational organization' means a private nonprofit organization that—

''(A) serves the interests of Native Hawaiians;

''(B) has Native Hawaiians in substantive and policymaking positions within the organization;

''(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

''(D) has demonstrated expertise in the education of Native Hawaiian youth; and

''(E) has demonstrated expertise in research and program development.

''(4) NATIVE HAWAIIAN LANGUAGE.—The term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

''(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means a private nonprofit organization that—

''(A) serves the interests of Native Hawaiians;

''(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

''(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

''(6) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

''PART C—ALASKA NATIVE EDUCATION

''SEC. 7301. SHORT TITLE.

''This part may be cited as the 'Alaska Native Educational Equity, Support, and Assistance Act'.

''SEC. 7302. FINDINGS.

''Congress finds the following:

''(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being, and preservation of the culture of Alaska Natives.

''(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

''(3) Alaska Native children enter and exit school with serious educational handicaps.

''(4) The educational achievement of Alaska Native children is far below national norms. Native performance on standardized tests is low, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

''(5) The programs authorized in this title, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

''(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural Alaska and Alaska villages should be addressed through the development and implementation of innovative, model programs in a variety of areas.

''(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

''SEC. 7303. PURPOSES.

''The purposes of this part are to—

''(1) recognize the unique educational needs of Alaska Natives;

''(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

''(3) supplement programs and authorities in the area of education to further the objectives of this part; and

''(4) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

''SEC. 7304. PROGRAM AUTHORIZED.

''(a) GENERAL AUTHORITY.—

''(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives, and consortia of organizations and entities described in this paragraph to carry out programs that meet the purposes of this part.

''(2) PERMISSIBLE ACTIVITIES.—Activities provided through programs carried out under this part may include—

''(A) the development and implementation of plans, methods, and strategies to improve the education of Alaska Natives;

''(B) the development of curricula and educational programs that address the educational needs of Alaska Native students, including—

''(i) curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives;

''(ii) instructional programs that make use of Native Alaskan languages; and

''(iii) networks that introduce successful programs, materials, and techniques to urban and rural schools;

''(C) professional development activities for educators, including—

''(i) programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students;

''(ii) in-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students; and

''(iii) recruitment and preparation of teachers who are Alaska Native, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction in Alaska;

''(D) the development and operation of home instruction programs for Alaska Native preschool children, the purpose of which is to ensure the active involvement of parents in their children's education from the earliest ages;

''(E) family literacy services;

''(F) the development and operation of student enrichment programs in science and mathematics that—

''(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter secondary school, to excel in science and math; and

''(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the programs;

''(G) research and data collection activities to determine the educational status and needs of Alaska Native children and adults;

''(H) other research and evaluation activities related to programs carried out under this part;

''(I) remedial and enrichment programs to assist Alaska Native students in performing at a high level on standardized tests;

''(J) education and training of Alaska Native students enrolled in a degree program that will lead to certification or licensing as teachers;

''(K) parenting education for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including skills relating to discipline and cognitive development), including parenting education provided through in-home visitation of new mothers;

''(L) cultural education programs operated by the Alaska Native Heritage Center 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 Alaska Native culture with urban students in a rural setting, which shall be known as the Rose Cultural Exchange Program;

''(N) activities carried out through Even Start programs carried out under subpart 1 of part B of title I and Head Start programs carried out under the Head Start Act, including the training of teachers for programs described in this subparagraph;

''(O) other early learning and preschool programs;

''(P) dropout prevention programs such as the Cook Inlet Tribal Council's Partners for Success program;

''(Q) an Alaska Initiative for Community Engagement program;

''(R) career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing tech-prep, mentoring, training, and apprenticeship activities;

''(S) provision of operational support and construction funding, and purchasing of equipment, to develop regional vocational schools in rural areas of Alaska, including boarding schools, for Alaska Native students in grades 9 to 12, and higher levels of education, to provide the students with necessary resources to prepare for skilled employment opportunities; and

''(T) other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

''(3) HOME INSTRUCTION PROGRAMS.—Home instruction programs for Alaska Native preschool children carried out under paragraph (2)(D) may include—

''(A) programs for parents and their infants, from the prenatal period of the infant through age 3;

''(B) preschool programs; and

''(C) training, education, and support for parents in such areas as reading readiness, observation, story telling, and critical thinking.

''(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grant recipient under this section for any fiscal year may be used for administrative purposes.

''(c) PRIORITIES.—In awarding grants or contracts to carry out activities described in subsection (a)(2), except for activities listed in subsection (d)(2), the Secretary shall give priority to applications from Alaska Native regional nonprofit organizations, or consortia that include at least 1 Alaska Native regional nonprofit organization.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For fiscal year 2002 and each of the 6 succeeding fiscal years, there is authorized to be appropriated to carry out this section the same amount as is authorized to be appropriated under section 7205 for activities under that section for that fiscal year.

''(2) AVAILABILITY OF FUNDS.—Of the funds appropriated and made available under this section for a fiscal year, the Secretary shall make available—

''(A) not less than $1,000,000 to support activities described in subsection (a)(2)(K);

''(B) not less than $1,000,000 to support activities described in subsection (a)(2)(L);

''(C) not less than $1,000,000 to support activities described in subsection (a)(2)(M);

''(D) not less than $2,000,000 to support activities described in subsection (a)(2)(P); and

''(E) not less than $2,000,000 to support activities described in subsection (a)(2)(Q).

''SEC. 7305. ADMINISTRATIVE PROVISIONS.

''(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

''(b) APPLICATIONS.—A State educational agency or local educational agency may apply for a grant or contract under this part only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

''(c) CONSULTATION REQUIRED.—Each applicant for a grant or contract under this part shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

''(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each applicant for a grant or contract under this part shall inform each local educational agency serving students who will participate in the program to be carried out under the grant or contract about the application.

''(e) REPORTING REQUIREMENTS.—Each recipient of a grant or contract under this part shall, not later than March 15 of each fiscal year in which the organization expends funds under the grant or contract, prepare and submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, summary reports, of not more than 2 pages in length. Such reports shall describe activities undertaken under the grant or contract, and progress made toward the overall objectives of the activities to be carried out under the grant or contract.

''SEC. 7306. DEFINITIONS.

''In this part:

''(1) ALASKA NATIVE.—The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act.

''(2) ALASKA NATIVE ORGANIZATION.—The term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, or another organization that—

''(A) has or commits to acquire expertise in the education of Alaska Natives; and

''(B) has Alaska Natives in substantive and policymaking positions within the organization.

SEC. 702. CONFORMING AMENDMENTS.

(a) HIGHER EDUCATION ACT OF 1965.—Section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)) is amended—

(1) in paragraph (1), by striking ''section 9308'' and inserting ''section 7306''; and

(2) in paragraph (3), by striking ''section 9212'' and inserting ''section 7207''.

(b) PUBLIC LAW 88–210.—Section 116 of Public Law 88–210 (as added by section 1 of Public Law 105–332 (112 Stat. 3076)) is amended by striking ''section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

(c) CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998.—Section 116(a)(5) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2326(a)(5)) is amended by striking ''section 9212'' and all that follows and inserting ''section 7207 of the Native Hawaiian Education Act''.

(d) MUSEUM AND LIBRARY SERVICES ACT.—Section 261 of the Museum and Library Services Act (20 U.S.C. 9161) is amended by striking ''section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

(e) ACT OF APRIL 16, 1934.—Section 5 of the Act of April 16, 1934 (commonly known as the ''Johnson-O'Malley Act'') (88 Stat. 2213; 25 U.S.C. 456) is amended by striking ''section 9104(c)(4)'' and inserting ''section 7114(c)(4)''.

(f) NATIVE AMERICAN LANGUAGES ACT.—Section 103 of the Native American Languages Act (25 U.S.C. 2902) is amended—

(1) in paragraph (2), by striking ''section 9161(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7881(4))'' and inserting ''section 7161(3) of the Elementary and Secondary Education Act of 1965''; and

(2) in paragraph (3), by striking ''section 9212(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7912(1))'' and inserting ''section 7207 of the Elementary and Secondary Education Act of 1965''.

(g) WORKFORCE INVESTMENT ACT OF 1998.—Section 166(b)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2911(b)(3)) is amended by striking ''paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

(h) ASSETS FOR INDEPENDENCE ACT.—Section 404(11) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking ''section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)'' and inserting ''section 7207 of the Native Hawaiian Education Act''.

TITLE VIII—IMPACT AID

SEC. 801. ELIGIBILITY UNDER SECTION 8003 FOR CERTAIN HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.

(a) ELIGIBILITY.—Section 8003(b)(2)(C) (20 U.S.C. 7703(b)(2)(C)) is amended—

(1) in clauses (i) and (ii) by inserting after ''Federal military installation'' each place it appears the following: ''(or the agency is a qualified local educational agency as described in clause (iv))''; and

(2) by adding at the end the following:

''(iv) QUALIFIED LOCAL EDUCATIONAL AGENCY.—A qualified local educational agency described in this clause is an agency that meets the following requirements:

''(I) The boundaries are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government.

''(II) The agency has no taxing authority.

''(III) The agency received a payment under paragraph (1) for fiscal year 2001.''.

(b) EFFECTIVE DATE.—The Secretary shall consider an application for a payment under section 8003(b)(2) for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by subsection (a), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 60 days after the date of enactment of this Act.

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., 8801 et seq.) are repealed.

(b) GOALS 2000: EDUCATE AMERICA ACT.—The Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.) is repealed.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. INDEPENDENT EVALUATION.

The Act (20 U.S.C. 6301 et seq.) (as 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 and Assessment of the National Research Council of the National Academy of Sciences to enable the Board to conduct, in consultation with the Department (and others that the Board determines appropriate), an ongoing evaluation, not to exceed 4 years in duration, of a representative sample of State

and local educational agencies regarding high stakes assessments used by the State and local educational agencies. The evaluation shall be based on a research design determined by the Board, in consultation with others, that includes existing data, and the development of new data as feasible and advisable. The evaluation shall address, at a minimum, the 3 components described in section 9102.

"SEC. 9102. COMPONENTS EVALUATED.

''The 3 components of the evaluation described in section 9101 are as follows:

''(1) STUDENTS, TEACHERS, PARENTS, FAMILIES, SCHOOLS, AND SCHOOL DISTRICTS.—The intended and unintended consequences of the assessments on individual students, teachers, parents, families, schools, and school districts, including—

''(A) overall improvement or decline in what students are learning based on independent measures;

''(B) changes in course offerings, teaching practices, course content, and instructional material;

''(C) measures of teacher satisfaction with the assessments;

''(D) changes in rates of teacher and administrator turnover;

''(E) changes in dropout, grade retention, and graduation rates for students;

''(F) the relationship of student performance on the assessments to school resources, teacher and instructional quality, or such factors as language barriers or construct-irrelevant disabilities;

''(G) changes in the frequency of referrals for enrichment opportunities, remedial measures, and other consequences;

''(H) changes in student post-graduation outcomes, including admission to, and signs of success (such as reduced need for remediation services) at, colleges, community colleges, or technical school training programs;

''(I) cost of preparing for, conducting, and grading the assessments in terms of dollars expended by the school district and time expended by students and teachers;

''(J) changes in funding levels and distribution of instructional and staffing resources for schools based on the results of the assessments;

''(K) purposes for which the assessments or components of the assessments are used beyond what is required under part A of title I, and the consequences for students and teachers because of those uses;

''(L) differences in the areas studied under this section between high poverty and high concentration minority schools and school districts, and schools and school districts with lower rates of poverty and minority students; and

''(M) the level of involvement of parents and families in the development and implementation of the assessments and the extent to which the parents and families are informed of assessment results and consequences.

''(2) STUDENTS WITH DISABILITIES.—The intended and unintended consequences of the assessments for students with disabilities, including—

''(A) the overall improvement or decline in academic achievement for students with disabilities;

''(B) the numbers and characteristics of students with disabilities who are excluded from the assessments, and the number and type of modifications and accommodations extended;

''(C) changes in the rate of referral of students to special education;

''(D) changes in attendance patterns and dropout, retention, and graduation rates for students with disabilities;

''(E) changes in rates at which students with disabilities are retained in grade level;

''(F) changes in rates of transfers of students with disabilities to other schools or institutions; and

''(G) the level of involvement of parents and families of students with disabilities in the development and implementation of the assessments and the extent to which the parents and families are informed of assessment results and consequences.

''(3) LOW SOCIO-ECONOMIC STUDENTS, LIMITED ENGLISH PROFICIENT STUDENTS, AND MINORITY STUDENTS.—The intended and unintended consequences of the assessments for low socio-economic status students, limited English proficient students, and racial and ethnic minority students, independently and as compared to middle or high socio-economic status students, nonlimited English proficient students, and white students, including—

''(A) the overall improvement or decline in academic achievement for such students;

''(B) the numbers and characteristics of such students excused from taking the assessments, and the number and type of modifications and accommodations extended to such students;

''(C) changes in the rate of referral of such students to special education;

''(D) changes in attendance patterns and dropout and graduation rates for such students;

''(E) changes in rates at which such students are retained in grade level;

''(F) changes in rates of transfer of such students to other schools or institutions; and

''(G) the level of involvement of parents and families of low socio-economic students, limited English proficient students, and racial and ethnic minority students in the development and implementation of the assessments and the extent to which the parents and families are informed of assessment results and consequences.

"SEC. 9103. REPORTING.

''The Secretary shall make public annually the results of the evaluation carried out under this part and shall report the findings of the evaluation to Congress and to the States not later than 2 months after the completion of the evaluation.

"SEC. 9104. DEFINITIONS.

''In this part:

''(1) HIGH STAKES ASSESSMENT.—The term 'high stakes assessment' means a standardized test that is one of the mandated determining factors in making decisions concerning a student's promotion, graduation, or tracking.

''(2) STANDARDIZED TEST.—The term 'standardized test' means a test that is administered and scored under conditions uniform to all students so that the test scores are comparable across individuals.

"SEC. 9105. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $4,000,000 for fiscal year 2002. Such funds shall remain available until expended.''.

"PART B—TRANSITION PROVISION

"SEC. 9201. CERTAIN MULTIYEAR GRANTS AND CONTRACTS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, from funds appropriated under subsection (b) the Secretary shall continue to fund any multiyear grant or contract awarded under section 3141 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.

''(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).

''(c) REPEAL.—This section is repealed on the date of enactment of a law that—

''(1) reauthorizes a provision of the Educational Research, Development, Dissemination, and Improvement Act of 1994; and

''(2) is enacted after the date of enactment of the Better Education for Students and Teachers Act.''.

SEC. 1002. HELPING CHILDREN SUCCEED BY FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

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

(1) All children deserve a quality education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1003. SENSE OF THE SENATE; AUTHORIZATION OF APPROPRIATIONS FOR TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(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) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out part A of title II of the Elementary and Secondary Education Act of 1965—

(1) $3,500,000,000 for fiscal year 2003;

(2) $4,000,000,000 for fiscal year 2004;

(3) $4,500,000,000 for fiscal year 2005;

(4) $5,000,000,000 for fiscal year 2006;

(5) $5,500,000,000 for fiscal year 2007; and

(6) $6,000,000,000 for fiscal year 2008.

SEC. 1004. SENSE OF THE SENATE REGARDING EDUCATION OPPORTUNITY TAX RELIEF.

(a) FINDINGS.—The Senate finds the following:

(1) Improving the education of our children is an essential and important responsibility facing this country.

(2) Strong parental involvement is a cornerstone for academic success; it is parents who know and understand the special, individual needs of their own children.

(3) Advanced technology has fueled unprecedented economic growth and positively transformed the way Americans conduct business and communicate with each other.

(4) Families will need ready access to the technical tools and skills necessary for their school age children to succeed in the classroom and the increasingly competitive international marketplace.

(5) Studies have shown that the presence of a computer in the home has a positive impact on a student's level of academic achievement and performance in school.

(6) Tax relief, enabling the purchase of technology and tutorial services for K–12 education purposes, would significantly help defray the cost of education expenses by: Empowering families financially and increasing education spending; allowing families to provide their children access to a far greater range of educational opportunities suited to their individual needs; and bridging the digital divide.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) act expeditiously to pass legislation in the First Session of the One Hundred Seventh Congress that provides tax relief to parents of K–12 students for the cost of their children's education-related expenses, specifically, computers, peripherals and computer-related technology, educational software, Internet access and tutoring services; and

(2) that such tax relief would not apply toward the cost of private school tuition.

SEC. 1005. SENSE OF THE SENATE REGARDING TAX RELIEF FOR ELEMENTARY AND SECONDARY EDUCATORS.

(a) FINDINGS.—The Senate finds the following:

(1) The average salary for an elementary and secondary school teacher in the United States with a Master's degree and 16 years of experience is approximately $40,582.

(2) The average starting salary for teachers in the United States is $26,000.

(3) Our educators make many personal and financial sacrifices to educate our youth.

(4) Teachers spend on average $408 a year, out of their own money, to bring educational supplies into their classrooms.

(5) Educators spend significant money out of their own pocket every year on professional development expenses so they can better educate our youth.

(6) Many educators accrue significant higher education student loans that must be repaid and whereas these loans are accrued by educators in order for them to obtain degrees necessary to become qualified to serve in our Nation's schools.

(7) As a result of these numerous out of pocket expenses that our teachers spend every year, and other factors, 6 percent of the Nation's teaching force leaves the profession every year, and 20 percent of all new hires leave the teaching profession within three years.

(8) This country is in the midst of a teacher shortage, with estimates that 2.4 million new teachers will be needed by 2009 because of teacher attrition, teacher retirement, and increased student enrollment.

(9) The Federal Government can and should play a role to help alleviate the Nation's teaching shortage.

(10) The current tax code provides little recognition of the fact that our educators spend significant money out of their own pocket to better the education of our children.

(11) President Bush has recognized the importance of providing teachers with additional tax relief, in recognition of the many financial sacrifices our teachers make.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should pass legislation providing elementary and secondary level educators with additional tax relief in recognition of the many out of pocket, unreimbursed expenses educators incur to improve the education of our Nation's students.

SEC. 1006. SENSE OF THE SENATE; AUTHORIZATION OF APPROPRIATIONS FOR TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should appropriate $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) provide that schools, local educational agencies, and States have the resources they need to assist all limited English proficient students in attaining proficiency in the English language, and meeting the same challenging State content and student performance standards that all students are expected to meet in core academic subjects;

(2) provide for the development and implementation of bilingual education programs and language instruction educational programs that are tied to scientifically based research, and that effectively serve limited English proficient students; and

(3) provide for the development of programs that strengthen and improve the professional training of educational personnel who work with limited English proficient students.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out part A and part D of title III of the Elementary and Secondary Education Act of 1965—

(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) $2,100,000,000 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 TRADITIONAL 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 American History Grant Program' under which the Secretary shall award grants on a competitive basis to local educational agencies—

''(1) to carry out activities to promote the teaching of traditional American history in schools as a separate subject; and

''(2) 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.

''(b) 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 jointly shall—

(A) conduct a study regarding how exposure to violent entertainment (such as movies, music,

television, Internet content, video games, and arcade games) affects children's cognitive development and educational achievement; and

(B) submit a final report to Congress regarding the study.

(2) PLAN.—The Director and the Secretary jointly shall submit to Congress, not later than 6 months after the date of enactment of this Act, a plan for the conduct of the study.

(3) INTERIM REPORTS.—The Director and the Secretary jointly shall submit to Congress annual interim reports regarding the study until the final report is submitted under paragraph (1)(B).

(b) INFORMATION.—Section 411(b)(3) of the National Education Statistics Act of 1994 (20 U.S.C. 9010(b)(3) et seq.) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, in carrying out the National Assessment the Commissioner shall gather data regarding how much time children spend on various forms of entertainment, such as movies, music, television, Internet content, video games, and arcade games.''.

SEC. 1009. SENSE OF THE SENATE REGARDING TRANSMITTAL OF S. 27 TO HOUSE OF REPRESENTATIVES.

(a) FINDINGS.—The Senate finds that—

(1) on April 2, 2001, the Senate of the United States passed S. 27, the Bipartisan Campaign Reform Act of 2001, by a vote of 59 to 41;

(2) it has been over 30 days since the Senate moved to third reading and final passage of S. 27;

(3) it was then in order for the bill to be engrossed and officially delivered to the House of Representatives of the United States;

(4) the precedents and traditions of the Senate dictate that bills passed by the Senate are routinely sent in a timely manner to the House of Representatives;

(5) the will of the majority of the Senate, having voted in favor of campaign finance reform is being unduly thwarted;

(6) the American people are taught that when a bill passes one body of Congress, it is routinely sent to the other body for consideration; and

(7) the delay in sending S. 27 to the House of Representatives appears to be an arbitrary action taken to deliberately thwart the will of the majority of the Senate.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of the Senate should properly engross and deliver S. 27 to the House of Representatives without any intervening delay.

SEC. 1010. SENSE OF THE SENATE; AUTHORIZATION OF APPROPRIATIONS FOR TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) SENSE OF THE SENATE.—Congress finds that—

(1) Congress should continue toward the goal of providing the necessary funding for after-school programs by appropriating the authorized level of $1,500,000,000 for fiscal year 2002 to carry out part F of title I of the Elementary and Secondary Education Act of 1965;

(2) this funding should be the benchmark for future years in order to reach the goal of providing academically enriched activities during after school hours for the 7,000,000 children in need.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out part F of title I of the Elementary and Secondary Education Act of 1965—

(1) $2,000,000,000 for fiscal year 2003;
(2) $2,500,000,000 for fiscal year 2004;
(3) $3,000,000,000 for fiscal year 2005;
(4) $3,500,000,000 for fiscal year 2006;
(5) $4,000,000,000 for fiscal year 2007; and
(6) $4,500,000,000 for fiscal year 2008.

SEC. 1011. EXCELLENCE IN ECONOMIC EDUCATION.

Title IX, as amended by section 1001, is further amended by adding at the end the following:

''PART D—EXCELLENCE IN ECONOMIC EDUCATION

''SEC. 9401. SHORT TITLE; FINDINGS.

''(a) SHORT TITLE.—This part may be cited as the ''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 more numerous 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 and financial literacy among all United States students in kindergarten through grade 12 by awarding a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.

''(b) GOALS.—The goals of this part are—

''(1) to increase students' 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 areas described in section 306(c) of the Goals 2000: Educate America Act (20 U.S.C. 5886(c)); and

''(5) to leverage and expand private and public support for economic education 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 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 the 'grantee').

''(2) USE OF GRANT FUNDS.—

''(A) ONE-QUARTER.—The grantee shall use ¼ 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 State and local personal finance, entrepreneurial, and economic education organizations;

''(ii) to support and promote training, of teachers who teach a grade from kindergarten through 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 ¾ of the funds made available through the grant for a fiscal year to award grants to State or local school boards, and State or local economic, personal finance, or entrepreneurial education organizations (which shall be referred to in this section as a 'recipient'). The grantee shall award such a grant to pay for the Federal 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 following purposes:

''(i) Collaboratively establishing and conducting teacher training programs that use effective and innovative approaches to the teaching of economics, personal finance, and entrepreneurship.

''(ii) Providing resources to school districts that want to incorporate economics and personal finance into the curricula of the schools in the districts.

''(iii) Conducting evaluations of the impact of economic and financial literacy education on students.

''(iv) Conducting economic and financial literacy education research.

''(v) Creating and conducting school-based student activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education, and to encourage awareness and student achievement in economics.

''(vi) Encouraging replication of best practices to encourage economic and financial literacy.

''(C) ADDITIONAL REQUIREMENTS AND TECHNICAL ASSISTANCE.—The grantee shall—

''(i) meet such other requirements as the Secretary determines to be necessary to assure compliance with this section; and

''(ii) provide such technical assistance as may be necessary to carry out this section.

''(3) PARTNERSHIP ENTITIES.—The entities referred to in paragraph (2)(B) are the following:

''(A) A private sector entity.
''(B) A State educational agency.
''(C) A local educational agency.
''(D) An institution of higher education.
''(E) Another organization promoting economic development.
''(F) Another organization promoting educational excellence.
''(G) Another organization promoting personal finance or entrepreneurial education.

''(4) ADMINISTRATIVE COSTS.—The grantee and each recipient receiving a grant under this section for a fiscal year may use not more than 25 percent of the funds made available through the grant for administrative costs.

''(b) TEACHER TRAINING PROGRAMS.—In carrying out the teacher training programs described in subsection (a)(2)(B) a recipient shall—

''(1) train teachers who teach a grade from kindergarten through grade 12; and

''(2) encourage teachers from disciplines other than economics and financial literacy to participate in such teacher training programs, if the training will promote the economic and financial literacy of their students.

''(c) INVOLVEMENT OF BUSINESS COMMUNITY.—In carrying out the activities assisted under this part the grantee and recipients are strongly encouraged to—

''(1) include interactions with the local business community to the fullest extent possible, to reinforce the connection between economic and financial literacy and economic development; and

''(2) work with private businesses to obtain matching contributions for Federal funds and assist recipients in working toward self-sufficiency.

''(d) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost described in subsection (a)(2)(B) shall be 50 percent.

''(2) NON-FEDERAL SHARE.—The non-Federal share may be paid in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(e) 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) RECIPIENTS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, a recipient shall submit an application to the grantee at such time, in such manner, and accompanied by such information as the grantee may require.

''(B) REVIEW.—The grantee shall invite the individuals described in subparagraph (C) to review all applications from recipients for a grant under this section and to make recommendations to the grantee regarding the funding of the applications.

''(C) INDIVIDUALS.—The individuals referred to in subparagraph (B) are the following:

''(i) Leaders in the fields of economics and education.

''(ii) Such other individuals as the grantee determines to be necessary, especially members of the State and local business, banking, and finance community.

''(f) 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 section 9302(a).

''(g) REPORT.—The Secretary shall prepare and submit to the appropriate committees of Congress a report regarding activities assisted under this section not later than 2 years after the date funds are first appropriated under subsection (h) and every 2 years thereafter.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 1012. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the ''Loan Forgiveness for Head Start Teachers Act of 2001''.

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C 1078–10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

''(1)(A) has been employed—

''(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and'';

(2) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (ii) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(3) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (ii) of subsection (b)(1)(A).''.

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078–10) is amended—

(1) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(2) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)'';

(3) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)''; and

(4) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

(d) DIRECT STUDENT LOAN FORGIVENESS.—

(1) IN GENERAL.—Section 460 of the Higher Education Act of 1965 (20 U.S.C 1087j) is amended—

(A) in subsection (b)(1), by amending subparagraph (A) to read as follows:

''(A)(i) has been employed—

''(I) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(II) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(ii)(I) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(II) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(III) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and'';

(B) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in subclause (II) of subsection (b)(1)(A)(i) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(C) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in subclause (II) of subsection (b)(1)(A)(i).''.

(2) CONFORMING AMENDMENTS.—Section 460 of such Act (20 U.S.C. 1087j) is amended—

(A) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(B) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)(I)'';

(C) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)(I)''; and

(D) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

SEC. 1013. SENSE OF THE SENATE REGARDING THE BENEFITS OF MUSIC AND ARTS EDUCATION.

(a) FINDINGS.—The Senate finds that—

(1) there is a growing body of scientific research demonstrating that children who receive music instruction perform better on spatial-temporal reasoning tests and proportional math problems;

(2) music education grounded in rigorous academic instruction is an important component of a well-rounded academic program;

(3) opportunities in music and the arts have enabled children with disabilities to participate more fully in school and community activities;

(4) music and the arts can motive at-risk students to stay in school and become active participants in the educational process;

(5) according to the College Board, college-bound high school seniors in 1998 who received music or arts instruction scored 57 points higher on the verbal portion of the Scholastic Aptitude test and 43 points higher on the math portion of the test than college-bound seniors without any music or arts instruction;

(6) a 1999 report by the Texas Commission on Drug and Alcohol Abuse states that individuals who participated in band, choir, or orchestra reported the lowest levels of current and lifelong use of alcohol, tobacco, and illicit drugs; and

(7) comprehensive sequential music education instruction enhances early brain development and improves cognitive and communicative skills, self-discipline, and creativity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) music and arts education enhances intellectual development and enriches the academic environment for children of all ages; and

(2) music and arts educators greatly contribute to the artistic, intellectual, and social development of the children of our Nation, and play a key role in helping children to succeed in school.

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 or geographic boundary;

(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 paragraph (4) are less 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 reading materials sent for these purposes 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 in the year 2000 rate case, 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 1 day 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 local educational agencies are encouraged to include a requirement that, before receiving a certificate or diploma of graduation from secondary school, students be tested on the 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 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 by helping children master basic academics, holding children to high academic standards, using sound research based methods of instruction in the classroom, engaging and involving parents, establishing and maintaining safe and orderly classrooms, and getting funds to the classroom.

(2) America's children deserve an educational system that provides them with numerous opportunities to excel.

(3) States and localities spend a significant amount of education tax dollars on bureaucratic red tape by applying for and administering Federal education dollars.

(4) Several States have reported that although they receive less than 10 percent of their education funding from the Federal Government, more than 50 percent of their education paperwork and administration efforts are associated with those Federal funds.

(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 instruction and instructional support.

(6) The remainder of the funds allocated by the Department of Education for elementary and secondary education in 1998 was allocated to States, universities, national programs, and other service providers.

(7) The total spent by the Department of Education for elementary and secondary education does not take into account what States spend to receive Federal funds and comply with Federal requirements for elementary and secondary education, nor does it reflect the percentage of Federal funds allocated to school districts that is spent on students in the classroom.

(8) American students are not performing up to their full academic potential, despite significant Federal education initiatives and funding from a variety of Federal agencies.

(9) According to the Digest of Education Statistics, only 54 percent of $278,965,657,000 spent on elementary and secondary education during the 1995–96 school year was spent on ''instruction''.

(10) According to the National Center for Education Statistics, only 52 percent of staff employed in public elementary and secondary school systems in 1996 were teachers, and, according to the General Accounting Office, Federal education dollars funded 13,397 full-time equivalent positions in State educational agencies in fiscal year 1993.

(11) In fiscal year 1998, the paperwork 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 and energy which would be better spent teaching children in the classroom.

(12) Too large a percentage of Federal education funds is spent on bureaucracy, special interests, and ineffective programs, and too little is effectively and efficiently spent on our America's youth.

(13) Requiring an allocation of 95 percent of all Federal elementary and secondary education funds to classrooms would provide substantial additional funding per classroom across the United States.

(14) More education funding should be put in the hands of someone in a classroom who knows the children personally and frequently interacts with the children.

(15) Burdensome regulations, requirements, and mandates should be refined, consolidated or removed so that school districts can devote more resources to educating children in 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 carrying out 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 BIBLE TEACHING IN PUBLIC SCHOOLS.

(a) FINDINGS.—The Senate finds that—

(1) the Bible is the best selling, most widely read, and most influential 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 historic qualities;

(4) many public schools throughout America are currently teaching the Bible as literature and/or history.

(b) SENSE OF SENATE.—It is the sense of the Senate that nothing in this Act or any provision of law shall discourage the teaching of the Bible in any public school.

SEC. 1019. SENIOR OPPORTUNITIES.

(a) TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS.—Section 1609(a)(2) (as amended in section 161) is further amended—

(1) in subparagraph (G), by striking ''and'' after the semicolon;

(2) in subparagraph (H), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(I) if the organization plans to use seniors as volunteers in activities carried out through the center, a description of how the organization will encourage and use appropriately qualified seniors to serve as the volunteers.''.

(b) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; GOVERNOR'S PROGRAMS.—Section 4114(d) (as amended in section 401) is further amended—

(1) in paragraph (14), by striking ''and'' after the semicolon;

(2) in paragraph (15), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(16) drug and violence prevention activities that use the services of appropriately qualified seniors.''.

(c) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.—Section 4116(b) (as amended in section 401) is further amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring''; and

(B) in subparagraph (C)—

(i) in clause (i), by striking ''and'' after the semicolon;

(ii) in clause (ii), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(iii) drug and violence prevention activities that use the services of appropriately qualified seniors;'';

(2) in paragraph (4)(C), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring programs''; and

(3) in paragraph (8), by inserting '', which may involve appropriately qualified seniors working with students'' after ''settings''.

(d) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; FEDERAL ACTIVITIES.—Section 4121(a) (as amended in section 401) is further amended—

(1) in paragraph (10), by inserting '', including projects and activities that promote the interaction of youth and appropriately qualified seniors'' after ''responsibility''; and

(2) in paragraph (13), by inserting '', including activities that integrate appropriately qualified seniors in activities'' after ''title''.

(e) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; FORMULA GRANTS.—Section 7115(b) (as amended in section 701) is further amended—

(1) in paragraph (10), by striking ''and'' after the semicolon;

(2) in paragraph (11), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(12) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.''.

(f) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; SPECIAL PROGRAMS AND PROJECTS.—Section 7121(c)(1) (as amended in section 701) is further amended—

(1) in subparagraph (K), by striking ''or'' after the semicolon;

(2) in subparagraph (L), by striking ''(L)'' and inserting ''(M)''; and

(3) by inserting after subparagraph (K) the following:

''(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or''.

(g) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; PROFESSIONAL DEVELOPMENT.—The second sentence of section 7122(d)(1) (as amended in section 701) is further amended by striking the period and inserting '', and may include programs designed to train tribal elders and seniors.''.

(h) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; NATIVE HAWAIIAN PROGRAMS.—Section 7205(a)(3)(H) (as amended in section 701) is further amended—

(1) in clause (ii), by striking ''and'' after the semicolon;

(2) in clause (iii), by inserting ''and'' at the end; and

(3) by adding at the end the following:

''(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;''.

(i) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; ALASKA NATIVE PROGRAMS.—Section 7304(a)(2)(F) (as amended in section 701) is further amended—

(1) in clause (i), by striking ''and'' after the semicolon;

(2) in clause (ii), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(iii) may include activities that recognize and support the unique cultural and educational needs of Alaskan Native children, and incorporate appropriately qualified Alaskan Native elders and seniors;''.

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 subsection (h)(4), by striking subparagraph (B) and inserting the following:

''(B) the Secretary shall make a payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved in an amount that bears the same relation to 75 percent of the remainder as a percentage share determined for the local educational agency (as determined by dividing the maximum amount that such agency is eligible to receive under subsection (b) by the total maximum amounts that all such local educational agencies are eligible to receive under such subsection) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that for purposes of calculating a local educational agency's maximum payment under subsection (b), data from the most current fiscal year shall be used.''; and

(2) by adding at the end the following:

''(n) LOSS OF ELIGIBILITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall make a minimum payment to a local educational agency described in paragraph (2), for the first fiscal year that the agency loses eligibility for assistance under this section as a result of property located within the school district served by the agency failing to meet the definition of Federal property under section 8013(5)(C)(iii), in an amount equal to 90 percent of the amount received by the agency under this section in the preceding year.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency described in this paragraph is an agency that—

''(A) was eligible for, and received, a payment under this section for fiscal year 2002; and

''(B) beginning in fiscal year 2003 or a subsequent fiscal year, is no longer eligible for payments under this section as provided for in subsection (a)(1)(C) as a result of the transfer of the Federal property involved to a non-Federal entity.''.

SEC. 1021. IMPACT AID TECHNICAL AMENDMENTS.

(a) FEDERAL PROPERTY PAYMENTS.—Section 8002(h) (20 U.S.C. 7702(h)) (as amended by section 1803(c) of the Impact Aid Reauthorization Act of 2000 (as enacted into law by section 1 of 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 ''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 30, 1950''; and

(B) in subparagraph (B), by striking ''(or if the local educational agency was not eligible to receive a payment under such section 2 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 under 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''; and

(B) in subparagraph (B)(ii), by striking ''for each local educational agency that received a payment under this section for fiscal year 1995'' and inserting ''for each local educational agency described in subparagraph (A)''; and

(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 the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies''; and

(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 1 of Public Law 106-398)) is amended by inserting after ''of the State in which the agency is located'' the following: ''or less than the average per pupil expenditure of all the States''.

(c) STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.—Section 8009(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))'' the following: ''and, with respect to a local educational agency that receives a payment under section 8003(b)(2), 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)''.

(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 1 of Public Law 106-398)) is amended—

(1) in subsection (a), by striking ''three succeeding'' and inserting ''six succeeding'';

(2) in subsection (b), by striking ''three succeeding'' and inserting '''six succeeding'';

(3) in subsection (c), by striking ''three succeeding'' and inserting ''six succeeding'';

(4) in subsection (e), by striking ''three succeeding'' and inserting ''six succeeding'';

(5) in subsection (f), by striking ''three succeeding'' and inserting ''six succeeding''; and

(6) in subsection (g), 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 biological evolution is taught, 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 (b) 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 1 of Public Law 106-398)) is amended to read as follows:

''(b) SCHOOL FACILITY MODERNIZATION GRANTS AUTHORIZED.—

''(1) FUNDING AND ALLOCATION.—

''(A) FUNDING.—From 60 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary shall award grants in accordance with this subsection to eligible local educational agencies to enable the local educational agencies to carry out modernization of school facilities.

''(B) ALLOCATION.—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) 45 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) 45 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 not be subject to the requirements of subparagraphs (A) and (B) of paragraph (4).

''(C) 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 8003(a)(1).

''(2) ELIGIBILITY REQUIREMENTS.—A local educational agency is eligible to receive funds under this subsection only if—

''(A) such agency received 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;

''(B) 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

''(C) such agency had an enrollment of children determined under subparagraphs (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.

''(3) AWARD CRITERIA.—In awarding grants under this subsection, the Secretary shall review applications submitted with respect to each type of agency represented by local educational agencies that qualify under each of subparagraphs (A), (B), and (C) of paragraph (2). 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 serves high numbers or percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1).

''(D) The need for modernization to meet—

''(i) the threat that the condition of the school facility poses to the health, safety, and well-being of students;

''(ii) overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment; and

''(iii) facility needs resulting 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 and the ability 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 land 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 $5,000,000 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 facility;

''(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;

''(C) a description of how the local educational agency meets the award criteria under paragraph (3);

''(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) EMERGENCY GRANTS.—

''(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 include 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 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).

''(C) PRIORITY.—If the Secretary receives more than one application from local educational agencies described in paragraph (1)(B)(ii) or (1)(B)(iii) for grants under this subsection for any fiscal year, the Secretary 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 the grant considered for the following fiscal year, subject to the priority described in subparagraph (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) MAINTENANCE.—Nothing 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 Federal funds received under this subsection shall be used for outdoor stadiums 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.

''(8) 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 quality servicemembers is very challenging, and as a result, Armed Forces recruiters must devote extraordinary time and effort to their work in order to fill monthly requirements for immediate accessions.

(4) In meeting goals for recruiting high quality men and women, each of the Armed Forces faces intense competition from the other Armed Forces, from the private sector, and from institutions offering postsecondary education.

(5) Despite a variety of innovative approaches taken by recruiters, and the extensive benefits that are available to those who join the Armed Forces, it is becoming increasingly difficult for the Armed Forces to meet recruiting goals.

(6) A number of high schools across the country have denied recruiters access to students or to student directory information.

(7) In 1999, the Army was denied access to students or student directories on 4,515 occasions, the Navy was denied access to students or student directories on 4,364 occasions, the Marine Corps was denied access to students or student directories on 4,884 occasions, and the Air Force was denied access to students or student directories on 5,465 occasions.

(8) As of the beginning of 2000, nearly 25 percent of all high schools in the United States did not release student directory information requested by Armed Forces recruiters.

(9) In testimony presented to the Committee on Armed Services of the Senate, recruiters stated that the single biggest obstacle to carrying out the recruiting mission was denial of access to student directory information, as the student directory is the basic tool of the recruiter.

(10) Denying recruiters direct access to students and to student directory information unfairly hurts the youth of the United States, as it prevents students from receiving important information on the education and training benefits offered by the Armed Forces and impairs students' decisionmaking on careers by limiting the information on the options available to them.

(11) Denying recruiters direct access to students and to student directory information undermines United States national defense, and makes it more difficult to recruit high quality young Americans in numbers sufficient to maintain the readiness of the Armed Forces and to provide for the national security.

(12) Section 503 of title 10, United States Code, requires local educational agencies, as of July 1, 2002, to provide recruiters access to secondary schools on the same basis that those agencies provide access to representatives of colleges, universities, and private sector employers.

(b) CAMPAIGN TO PROMOTE ACCESS.—

(1) REPORT.—Not later than 30 days after the date of enactment of this Act, each State shall transmit to the Secretary of Education 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 students or 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 funds available under section 6205(c) of 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.

(a) DENIAL OF FUNDS.—

(1) PROHIBITION.—No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education (including any school of law, whether or not accredited by the American Bar Association) that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) EXEMPTION.—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.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, 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).

(c) DEFINITION.—For purposes of this section, the term ''directory information'' means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

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 year 2012 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. SCHOOL RESOURCE OFFICER PROJECTS.

(a) COPS PROGRAM.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) 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, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;''.

(b) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(2) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(3) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended by adding at the end the following:

''(C) There are authorized to be appropriated to carry out school resource officer activities under sections 1701(d)(8) and 1709(4), to remain available until expended $180,000,000 for each of fiscal year 2002 through 2007.''.

SEC. 1028. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1966 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking ''1,000'' and inserting ''1,200'';

(B) by striking ''2,500'' and inserting ''4,000''; and

(C) by striking ''December 31, 1999'' and inserting ''December 31, 2006, serving not less than 6,000,000 young people'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''1997, 1998, 1999, 2000, and 2001'' and inserting ''2002, 2003, 2004, 2005, and 2006''; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''90 days'' and inserting ''30 days'';

(ii) in subparagraph (A), by striking ''1,000'' and inserting ''1,200''; and

(iii) in subparagraph (B), by striking ''2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000'' and inserting ''4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007''; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $60,000,000 for fiscal year 2002;

''(B) $60,000,000 for fiscal year 2003;

''(C) $60,000,000 for fiscal year 2004;

''(D) $60,000,000 for fiscal year 2005; and

''(E) $60,000,000 for fiscal year 2006.''.

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 conducted 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.

SEC. 1030. CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998.

(a) IN GENERAL.—Section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327) is amended—

(1) in subsection (a), by inserting ''that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institutions'';

(2) in subsection (b), by adding ''institutional support of'' after ''for'';

(3) in subsection (d), by inserting ''that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institution''; and

(4) in subsection (e)(1)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following:

''(D) institutional support of vocational and technical education.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) APPLICATION.—The amendments made by subsection (a) shall apply to grants made for fiscal year 2001 only if this Act is enacted before September 30, 2001.

SEC. 1031. SENSE OF CONGRESS ON ENHANCING AWARENESS OF THE CONTRIBUTIONS OF VETERANS TO THE NATION.

(a) FINDINGS.—Congress makes the following findings

(1) Tens of millions of Americans have served in the Armed Forces of the United States during the past century.

(2) Hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century.

(3) The contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life.

(4) The advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces.

(5) This reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations.

(6) Our system of civilian control of the Armed Forces makes it essential that the Nation's future leaders understand the history of military action and the contributions and sacrifices of those who conduct such actions.

(7) Senate Resolution 304 of the 106th Congress, adopted on September 25, 2000, designated the week that includes Veterans Day as ''National Veterans Awareness Week'' to focus attention on educating elementary and secondary school students about the contributions of veterans to the Nation.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Education should work with the Secretary of Veterans Affairs, the Veterans Day National Committee, and the veterans service organizations to encourage, prepare, and disseminate educational materials and activities for elementary and secondary school students aimed at increasing awareness of the contributions of veterans to the prosperity and freedoms enjoyed by United States citizens.

SEC. 1032. TECHNICAL AMENDMENT TO THE KIDS 2000 ACT.

Amounts appropriated pursuant to section 112(f)(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) SHORT TITLE.—This section may be cited as the ''School Environment Protection Act of 2001''.

(b) PEST MANAGEMENT.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136x, 136y) as sections 34 and 35, respectively; and

(2) by inserting after section 32 (7 U.S.C. 136w–7) the following:

''SEC. 33. PEST MANAGEMENT IN SCHOOLS.

''(a) DEFINITIONS.—In this section:

''(1) BAIT.—The term 'bait' means a pesticide that contains an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

''(2) CONTACT PERSON.—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.

''(3) EMERGENCY.—The term 'emergency' means an urgent need 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 the term in section 3 of the Elementary and Secondary Education Act of 1965.

''(5) SCHOOL.—

''(A) IN GENERAL.—The term 'school' means a public—

''(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 Act);

''(iii) kindergarten or nursery school that is part of an elementary school or secondary school; or

''(iv) tribally-funded school.

''(B) INCLUSIONS.—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.

''(6) SCHOOL PEST MANAGEMENT PLAN.—The term 'school pest management plan' means a pest management plan developed under subsection (b).

''(7) STAFF MEMBER.—

''(A) IN GENERAL.—The term 'staff member' means a person employed at a school or local educational agency.

''(B) 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.

''(8) STATE AGENCY.—The term 'State agency' means the an agency of a State, or an agency of an Indian tribe or tribal organization (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 matters relating to pesticide regulation.

''(9) UNIVERSAL NOTIFICATION.—The term 'universal notification' means notice provided by a local educational agency or school to—

''(A) parents, legal guardians, or other persons with legal standing as parents of each child attending the school; and

''(B) staff members of the school.

''(b) SCHOOL PEST MANAGEMENT PLANS.—

''(1) STATE PLANS.—

''(A) GUIDANCE.—As soon as practicable (but not later than 180 days) after the date of enactment of the School Environment Protection Act of 2001, the Administrator shall develop, in accordance with this section—

''(i) guidance for a school pest management plan; and

''(ii) a sample school pest management plan.

''(B) PLAN.—As soon as practicable (but not later than 1 year) after the date of enactment of the School Environment Protection Act of 2001, each State agency shall develop and submit to the Administrator for approval, as part of the State cooperative agreement under section 23, a school pest management plan for local educational agencies in the State.

''(C) COMPONENTS.—A school pest management plan developed under subparagraph (B) shall, at a minimum—

''(i) implement a system that—

''(I) eliminates or mitigates health risks, or economic or aesthetic damage, caused by pests;

''(II) employs—

''(aa) integrated methods;

''(bb) site or pest inspection;

''(cc) pest population monitoring; and

''(dd) an evaluation of the need for pest management; and

''(III) is developed taking into consideration pest management alternatives (including sanitation, structural repair, and mechanical, biological, cultural, and pesticide strategies) that minimize health and environmental risks;

''(ii) require, for pesticide applications at the school, universal notification to be provided—

''(I) at the beginning of the school year;

''(II) at the midpoint of the school year; and

''(III) at the beginning of any summer session, as determined by the school;

''(iii) establish a registry of staff members of a school, and of parents, legal guardians, or other persons with legal standing as parents of each child attending the school, that have requested to be notified in advance of any pesticide application at the school;

''(iv) establish guidelines that are consistent with the definition of a school pest management plan under subsection (a);

''(v) require that each local educational agency use a certified applicator or a person authorized by the State agency to implement the school pest management plans;

''(vi) be consistent with the State cooperative agreement under section 23; and

''(vii) require the posting of signs in accordance with paragraph (4)(G).

''(D) APPROVAL BY ADMINISTRATOR.—Not later than 90 days after receiving a school pest management plan submitted by a State agency under subparagraph (B), the Administrator shall—

''(i) determine whether the school pest management plan, at a minimum, meets the requirements of subparagraph (C); and

''(ii)(I) if the Administrator determines that the school pest management plan meets the requirements, approve the school pest management plan as part of the State cooperative agreement; or

''(II) if the Administrator determines that the school pest management plan does not meet the requirements—

''(aa) disapprove the school pest management plan;

''(bb) provide the State agency with recommendations for and assistance in revising the school pest management plan to meet the requirements; and

''(cc) provide a 90-day deadline by which the State agency shall resubmit the revised school pest management plan to obtain approval of the plan, in accordance with the State cooperative agreement.

''(E) DISTRIBUTION OF STATE PLAN TO SCHOOLS.—On approval of the school pest management plan of a State agency, the State agency shall make the school pest management plan available to each local educational agency in the State.

''(F) EXCEPTION FOR EXISTING STATE 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).

''(2) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

''(A) 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.

''(B) 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 (A).

''(C) 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 agricultural instruction involving the use of pesticides); and

''(ii) the use by students or staff members of an area or room treated with a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging during—

''(I) the period specified on the label of the pesticide during which a treated area or room should remain unoccupied; or

''(II) if there is no period specified on the label, the 24-hour period beginning at the end of the treatment.

''(3) 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 applications 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—

''(I) 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;

''(II) labels and fact sheets approved by the Administrator for all pesticides that may be used by the local educational agency; and

''(III) any final official information related to the pesticide, as provided to the local educational agency by the State agency; and

''(iv) for each school, maintain all pesticide use data for each pesticide used at the school (other than antimicrobial pesticides (as defined in clauses (i) and (ii) of section 2(mm)(1)(A))) for at least 3 years after the date on which the pesticide is applied; and

''(v) make that data available for inspection on request by any person.

''(4) NOTIFICATION.—

''(A) UNIVERSAL NOTIFICATION.—At the beginning of each school year, at the midpoint of each school year, and at the beginning of any summer session (as determined by the school), a local educational agency or school shall provide to staff members of a school, and to parents, legal guardians, and other persons with legal standing as parents of students enrolled at the school, a notice describing the school pest management plan that includes—

''(i) a summary of the requirements and procedures under the school pest management plan;

''(ii) 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);

''(iii) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(iv) the following statement (including information to be supplied by the school as indicated in brackets):

'As part of a school pest management plan, _____ (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 pose 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 1993 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 law requires EPA to reevaluate all registered pesticides and new pesticides to measure their safety, taking into account the unique exposures and sensitivity that pregnant women, infants, and children may have to pesticides. EPA review under that law is ongoing. You may request to be notified at least 24 hours in advance of pesticide applications to be made 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 REGISTRY.—

''(i) IN GENERAL.—Except as provided in clause (ii) and paragraph (5)—

''(I) notice of an upcoming pesticide application 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.

''(ii) NOTIFICATION CONCERNING PESTICIDES USED IN CURRICULA.—If pesticides are used as part of a regular vocational agricultural curriculum of the school, 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 of each pesticide to be applied;

''(II) a description of each location at the school at which a pesticide is to be applied;

''(III) a description of 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 based 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 Administrator;

''(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; and

''(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 application of the pesticide;

''(VI) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(VII) the statement described in subparagraph (A)(iv) (other than the ninth sentence of that statement).

''(C) NOTIFICATION AND POSTING EXEMPTION.—A notice or posting of a sign under subparagraph (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 enactment of the School Environment Protection Act of 2001, is exempt from the requirements of this Act under section 25(b) (including regulations promulgated at section 152 of title 40, Code of Federal Regulations (or any successor regulation)).

''(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 required 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 student enrolled during the school year.

''(E) METHOD OF NOTIFICATION.—A local educational agency or school may provide a notice under this subsection, using information described in paragraph (4), in the form of—

''(i) a written notice sent home with the students 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) REISSUANCE.—If the date of the application of the pesticide needs to be extended beyond the period required for notice under this paragraph, the school shall issue a notice containing only the new date and location of application.

''(G) POSTING OF SIGNS.—

''(i) IN GENERAL.—Except as provided in paragraph (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 posted 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 individuals entering the building; and

''(II) at the proposed site 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 subparagraph (A)(iv).

''(iv) OUTDOOR PESTICIDE APPLICATIONS.—

''(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).

''(5) EMERGENCIES.—

''(A) IN GENERAL.—A school may apply a pesticide 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 paragraph or on the morning of 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 designated contact person, notice of the application of the pesticide in an emergency that includes—

''(i) the information required for a notice under paragraph (4)(G); and

''(ii) a description of the problem and the factors that required the application of the pesticide 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 paragraph (4)(E).

''(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this paragraph, a school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

''(c) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—Nothing in this section (including regulations promulgated under this section)—

''(1) 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

''(2) establishes any exception under, or affects in any other way, section 24(b).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relating to sections 30 through 32 and inserting the following:

(d) EFFECTIVE DATE.—This section and the amendments 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:

''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 the intellect of our 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.

''(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 expand educational opportunities, which are critical for the continued economic development of the United States.

''(5) Frivolous lawsuits against teachers maintaining order in the classroom impose significant financial burdens on local educational agencies, and deprive the agencies of funds that would best be used for educating students.

''(6) Clarifying and limiting the liability of teachers, principals and other school professionals who undertake reasonable actions to maintain order, discipline and an appropriate educational environment is an appropriate subject of Federal legislation because—

''(A) the scope of the problems created by the legitimate fears of teachers, principals and other school professionals about frivolous, arbitrary or capricious lawsuits against teachers is of national importance; and

''(B) millions of children and their families across the Nation depend on teachers, principals and other school professionals for the intellectual development of children.

''(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, 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—

''(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 the State; and

''(3) containing no other provisions.

''SEC. 10004. LIMITATION ON LIABILITY FOR TEACHERS.

''(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 providing educational 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 efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

''(3) if appropriate or 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, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

''(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

''(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

''(A) possess an operator's license; or

''(B) maintain insurance.

''(b) CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

''(d) EXCEPTIONS TO TEACHER LIABILITY PROTECTION.—If the laws of a State limit teacher liability subject to 1 or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

''(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

''(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

''(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

''(e) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS.—

''(1) GENERAL RULE.—Punitive damages may not be awarded against a teacher in an action brought for harm based on the action or omission of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action or omission of such teacher which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

''(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

''(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

''(1) IN GENERAL.—The limitations on the liability of a teacher under this title shall not apply to any misconduct that—

''(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

''(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

''(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

''(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

''(2) HIRING.—The limitations on the liability of a teacher under this title shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

''SEC. 10005. LIABILITY FOR NONECONOMIC LOSS.

''(a) GENERAL RULE.—In any civil action against a teacher, based on an action or omission of a teacher acting within the scope 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.—

''(1) 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.

''(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic 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.

''(c) 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:

''(1) 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 loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

''(2) HARM.—The term 'harm' includes physical, nonphysical, economic, and noneconomic losses.

''(3) 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 consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

''(4) SCHOOL.—The term 'school' means a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 14101, or a home school.

''(5) 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.

''(6) 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, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.''.

TITLE XII—NATIVE AMERICAN EDUCATION IMPROVEMENT

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Native American Education Improvement Act of 2001''.

Subtitle A—Amendments to the Education Amendments of 1978

SEC. 1211. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

''PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

''SEC. 1120. FINDING AND POLICY.

''(a) FINDING.—Congress finds and recognizes that—

''(1) the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people includes the education of Indian children; and

''(2) the Federal Government has the responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that the Federal Government has established on or near reservations and Indian trust lands throughout the Nation for Indian children.

''(b) POLICY.—It is the policy of the United States to work in full cooperation with tribes toward the goal of assuring that the programs of the Bureau of Indian Affairs funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of these children.

''SEC. 1121. ACCREDITATION FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

''(a) PURPOSE; DECLARATIONS OF PURPOSE.—

''(1) PURPOSE.—The purpose of the accreditation required under this section shall be to ensure that Indian students being served by a school funded by the Bureau of Indian Affairs are provided with educational opportunities that equal or exceed those for all other students in the United States.

''(2) DECLARATIONS OF PURPOSE.—

''(A) IN GENERAL.—Local school boards for schools operated by the Bureau of Indian Affairs, in cooperation and consultation with the appropriate tribal governing bodies and their communities, are encouraged to adopt declarations of purpose for education for their communities, taking into account the implications of such declarations on education in their communities and for their schools. In adopting such declarations of purpose, the school boards shall consider the effect the declarations may have on the motivation of students and faculties.

''(B) CONTENTS.—A declaration of purpose for a community shall—

''(i) represent the aspirations of the community for the kinds of people the community would like the community's children to become; and

''(ii) contain an expression of the community's desires that all students in the community shall—

''(I) become accomplished in things and ways important to the students and respected by their parents and community;

''(II) shape worthwhile and satisfying lives for themselves;

''(III) exemplify the best values of the community and humankind; and

''(IV) become increasingly effective in shaping the character and quality of the world all students share.

''(b) ACCREDITATION.—

''(1) DEADLINE.—

''(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—

''(i) by a tribal department of education if such accreditation is accepted by a generally recognized State certification or regional accrediting agency;

''(ii) by a regional accreditation agency;

''(iii) in accordance with State accreditation standards for the State in which the school is located; or

''(iv) 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 desirability and 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 tribal governing body.

''(3) 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 subsection, if the school boards request 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 standards issued under section 1121 of the Education Amendments of 1978 and in effect on the date of enactment of the Native American Education Improvement Act of 2001 until such time as the 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 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 a description of any possible way in which to remedy such nonaccreditation; and

''(C) with respect to each Bureau funded school for which the reported reasons for the lack of accreditation under subparagraph (B) are a result of the school's inadequate basic resources, contains information and funding requests for the full funding needed to provide such schools with accreditation, such funds if provided shall be applied to such unaccredited school under this paragraph.

''(6) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—

''(A) IN GENERAL.—Prior to including a Bureau funded school in an annual report required under paragraph (5), the Secretary shall—

''(i) ensure that the school has exhausted all administrative remedies provided by the accreditation agency; and

''(ii) provide the school with an opportunity to review the data on which such inclusion is based.

''(B) PROVISION OF ADDITIONAL INFORMATION.—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 any such report.

''(C) PUBLICATION OF ACCREDITATION STATUS.—Not later than 30 days after making an initial determination to include a school in an annual report under paragraph (5), the Secretary shall make public the final determination on the accreditation status of the school.

''(7) SCHOOL PLAN.—

''(A) IN GENERAL.—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 parties including parents, school staff, the school board, and other outside experts (if appropriate), that shall be submitted to the Secretary for approval. The school plan shall cover a 3-year period and shall—

''(i) incorporate strategies that address the specific issues that caused the school to fail to be accredited or fail to be a candidate for accreditation;

''(ii) incorporate policies and practices concerning the school that have the greatest likelihood of ensuring that the school will obtain accreditation during the 3 year-period beginning on the date on which the plan is implemented;

''(iii) contain an assurance that the school will reserve the necessary funds, from the funds described in paragraph (3), for each fiscal year for the purpose of obtaining accreditation;

''(iv) specify how the funds described in clause (iii) will be used to obtain accreditation;

''(v) establish specific annual, objective goals for measuring continuous and significant progress made by the school in a manner that will ensure the accreditation of the school within the 3-year period described in clause (ii);

''(vi) identify how the school will provide written notification about the lack of accreditation to the parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand; and

''(vii) specify the responsibilities of the school board and any assistance to be provided by the Secretary under paragraph (3).

''(B) IMPLEMENTATION.—A school shall implement the school plan under subparagraph (A) expeditiously, but in no event later than the beginning of the school year following the school year in which the school was included in the annual report under paragraph (5) so long as the necessary resources have been provided to the school.

''(C) REVIEW OF PLAN.—Not later than 45 days after receiving a school plan, the Secretary shall—

''(i) establish a peer-review process to assist with the review of the plan; and

''(ii) promptly review the school plan, work with the school as necessary, and approve the

school plan if the plan meets the requirements of this paragraph.

''(8) CORRECTIVE ACTION.—

''(A) DEFINITION.—In this subsection, the term 'corrective action' means action that—

''(i) substantially and directly responds to—

''(I) the failure of a school to achieve accreditation; and

''(II) any underlying staffing, curriculum, or other programmatic problem in the school that contributed to the lack of accreditation; and

''(ii) is designed to increase substantially the likelihood that the school will be accredited.

''(B) CORRECTIVE ACTION INAPPLICABLE.—The Secretary shall grant a waiver to any school that fails to be accredited for reasons that are beyond the control of the school board, as determined by the Secretary, including a significant decline in financial resources, the poor condition of facilities, vehicles or other property, or a natural disaster. Such a waiver shall exempt such school from any or all of the requirements of this paragraph and paragraph (7), but such school shall be required to comply with the standards contained in part 36 of title 25, Code of Federal Register, as in effect on the date of enactment of the Native American Education Improvement Act of 2001.

''(C) DUTIES OF SECRETARY.—After providing assistance to a school under paragraph (3), the Secretary shall—

''(i) annually review the progress of the school under the applicable school plan, to determine whether the school is meeting, or making adequate progress towards, achieving the goals described in paragraph (7)(A)(v) with respect to reaccreditation or becoming a candidate for accreditation;

''(ii) except as provided in subparagraph (B), continue to provide assistance while implementing the school's plan, and, if determined appropriate by the Secretary, take corrective action with respect to the school if it fails to be accredited at the end of the third year of the school's plan;

''(iii) promptly notify the parents of children enrolled in the school of the option to transfer their child to another school;

''(iv) provide all students enrolled in the school with the option to transfer to another school, including a public or charter school, that is accredited; and

''(v) provide, or pay for the provision of, transportation for each student described in clause (iv) to the school to which the student elects to be transferred.

''(D) FAILURE OF SCHOOL PLAN.—With respect to a Bureau operated school that fails to be accredited at the end of the 3-year period during which the school's plan is in effect under paragraph (7), the Secretary may take 1 or more of the following corrective actions:

''(i) Institute and fully implement actions suggested by the accrediting agency.

''(ii) Consult with the tribe involved to determine the causes for the lack of accreditation including potential staffing and administrative changes that are or may be necessary.

''(iii) Set aside a certain amount of funds that may only be used by the school to obtain accreditation.

''(iv)(I) 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.

''(II) If the tribe declines to assume control of the school, the Secretary, in consultation with the tribe, may contract with an outside entity, consistent with applicable law, or appoint a receiver or trustee to operate and administer the affairs of the school until the school is accredited. The outside entity, receiver or trustee shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7).

''(III) Upon accreditation of the school, the Secretary shall allow the tribe to continue to operate the school as a grant or contract school, or if being controlled by an outside entity, provide the tribe with the option to assume operation of the school as a contract school, in accordance with the Indian Self Determination Act, or as a grant school in accordance with the Tribally Controlled Schools Act, at the beginning of the school year following the school year in which the school obtains accreditation. If the tribe declines, the Secretary may allow the outside entity, receiver or trustee to continue the operation of the school or reassume control of the school.

''(v)(I) With respect to—

''(aa) a school that is a grant school, comply with section 5207 of the Tribally Controlled Schools Act;

''(bb) a school that is a contract school, comply with the Indian Self Determination Act;

''(cc) a school described in item (aa) or (bb), take any corrective actions described in clauses (i) through (iii); or

''(dd) a school described in item (aa) or (bb), the Secretary, after complying with the notice and hearing requirements of the reassumption provisions of the Indian Self Determination Act, may assume the operation and administration of the school at the beginning of the school year following the revocation of the school's determination of eligibility and shall adopt a plan in accordance with paragraph (7).

''(II) With respect to a school described in subclause (I), if, at the end of the 3-year period during which the school's plan is in effect under paragraph (7), the school is still not accredited, the Secretary in consultation with the tribe may contract with an outside entity or appoint a receiver or trustee, which shall adopt a plan in accordance with paragraph (7), to operate and administer the affairs of the school until the school is accredited.

''(III) Upon accreditation of the school, the tribe shall have the option to assume the operation and administration of the school as a contract school after complying with the Indian Self Determination Act, or as a grant school, after complying with the Tribally Controlled Schools Act, at the beginning of the school year following the year in which the school obtains accreditation.

''(IV) The provisions of this clause shall be construed consistent with the provisions of the Tribally Controlled Schools Act and the Indian Self Determination Act as in effect on the date of enactment of the Native American Education Improvement Act of 2001, and shall not be construed as expanding the authority of the Secretary under any other law.

''(E) HEARING.—With respect to a school that is operated pursuant to a grant, or a school that is operated under a contract under the Indian Self Determination Act, prior to implementing any corrective action under this paragraph, the Secretary shall provide notice and an opportunity for a hearing to the affected school pursuant to section 5207 of the Tribally Controlled Schools Act.

''(9) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school employees under applicable law (including applicable regulations or court orders) or under the terms of any collective bargaining agreement, memorandum of understanding, or other agreement between such employees and their employers.

''(c) ANNUAL PLAN.—

''(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall implement the Bureau standards in effect on the date of enactment of the Native American Education Improvement Act of 2001.

''(2) PLAN.—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 detailed plan to ensure that all Bureau funded 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.

''(d) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

''(1) 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 subsection.

''(2) EXCEPTIONS.—This subsection (other than this paragraph) shall not apply—

''(A) in those cases in which the tribal governing body for a school, or the local school board concerned (if designated by the tribal governing body to act under this paragraph), requests the closure, consolidation, or substantial curtailment; or

''(B) if a temporary closure, consolidation, or substantial curtailment is required by facility conditions that constitute an immediate hazard to health and safety.

''(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of school programs of Bureau schools, in accordance with the requirements of this subsection.

''(4) NOTIFICATION.—

''(A) CONSIDERATION.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school program of a Bureau school is under active consideration or review by any division of the Bureau or the Department of the Interior, the head of the division or the Secretary shall ensure that the affected tribe, tribal governing body, and local school board, are notified (in writing) immediately, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review.

''(B) FORMAL DECISION.—When the head of any division of the Bureau or the Secretary makes a formal decision to close, transfer to another authority, consolidate, or substantially curtail a school program of a Bureau school, the head of the division or the Secretary shall notify (in writing) the affected tribes, tribal governing body, and local school board at least 6 months prior to the end of the academic year preceding the date of the proposed action.

''(C) COPIES OF NOTIFICATIONS AND INFORMATION.—The Secretary shall transmit copies of the notifications described in this paragraph promptly to the appropriate committees of Congress and publish such notifications copies in the Federal Register.

''(5) REPORT.—

''(A) IN GENERAL.—The Secretary shall submit a report to the appropriate committees of Congress, the affected tribal governing body and the designated local school board, describing the process of the active consideration or review referred to in paragraph (4).

''(B) CONTENTS.—The report shall include the results of a study of the impact of the action under consideration or review on the student population of the school involved, identify those

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 conducted 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 irreversible 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 end of 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, contract, 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;

''(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.

''(e) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

''(1) IN GENERAL.—

''(A) APPLICATIONS.—

''(i) TRIBES; SCHOOL BOARDS.—The Secretary shall only consider the factors described in subparagraph (B) in reviewing—

''(I) applications from any tribe for the awarding of a contract or 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 subparagraph (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 adequacy of the applicant's program plans or, in the case of a Bureau funded school, of a projected needs analysis conducted either by the tribe or the Bureau.

''(iv) Geographic proximity of comparable public education.

''(v) The stated needs of all affected parties, including students, families, tribal governing bodies at both the central and local levels, and school organizations.

''(vi) Adequacy and comparability of programs and services already available.

''(vii) Consistency of the proposed program and services with tribal educational codes or tribal legislation on education.

''(viii) The history and success of these services for the proposed population to be served, 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 180 days after the date such application is submitted to the Secretary.

''(B) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to make the determination with respect to an application by the date described in subparagraph (A), 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 students 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 (1)(B).

''(4) DENIAL OF APPLICATIONS.—If the Secretary denies an application described in paragraph (1)(A), the Secretary shall—

''(A) state the objections to the application in writing to the applicant not later than 180 days after the date the application is submitted to the Secretary;

''(B) provide assistance to the applicant to overcome the stated objections;

''(C) 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

''(D) 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).

''(5) 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 fiscal 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 this section, 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.

''(f) 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.

''(g) 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.

''(h) STUDY ON ADEQUACY OF FUNDS AND FORMULAS.—

''(1) STUDY.—The Comptroller General of the United States shall conduct a study to include an analysis of the information contained 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 unique circumstances applicable to Bureau funded schools.

''(2) FINDINGS.—On completion of the study under 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.

''(a) IN GENERAL.—The Secretary, in accordance with section 1136, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, need for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau schools. Any subsequent revisions shall also be in accordance with such section 1136.

''(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their issuance.

''(c) PLAN.—

''(1) 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 1105 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 into compliance with the standards established under this section; and

''(E) specific timelines for bringing each school into compliance with such standards.

''(d) WAIVER.—

''(1) 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).

''(2) INAPPROPRIATE STANDARDS.—

''(A) IN GENERAL.—A tribal governing body, or the local school board so designated by the tribal governing body, may waive, in whole or in part, the standards established under this section if such standards are determined by such body or board to be inappropriate for the needs of students from that tribe.

''(B) ALTERNATIVE STANDARDS.—The tribal governing body or school board involved shall,

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's children. 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 affected tribes or local school board.

''(e) CLOSURE FOR FAILURE TO MEET STANDARDS PROHIBITED.—No school in operation on or before July 1, 1999 (regardless of compliance or noncompliance with the standards established under this section), may be closed, transferred to another authority, or consolidated, and no program of such a school may be substantially curtailed, because the school failed to meet such standards.

''SEC. 1123. SCHOOL BOUNDARIES.

''(a) ESTABLISHMENT BY SECRETARY.—Except as described in subsection (b), the Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school.

''(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 schools on the reservation may, by mutual consent, establish the boundaries of the relevant geographical attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

''(c) BOUNDARY REVISIONS.—

''(1) IN GENERAL.—Effective on July 1, 1999, the Secretary may not establish or revise boundaries of a geographical attendance area with respect to any Bureau funded school unless the tribal governing body concerned and the school board concerned has been afforded—

''(A) at least 6 months notice of the intention of the Secretary to establish or revise such boundaries; and

''(B) the opportunity to propose alternative boundaries.

''(2) PETITIONS.—Any tribe may submit a petition to the Secretary requesting a revision of the geographical attendance area boundaries referred to in paragraph (1).

''(3) BOUNDARIES.—The Secretary shall accept proposed alternative boundaries described in paragraph (1)(B) or revised boundaries described in a petition submitted under paragraph (2) unless the Secretary finds, after consultation with the affected tribe, that such alternative or revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. On accepting the boundaries, the Secretary shall publish information describing the boundaries in the Federal Register.

''(4) TRIBAL RESOLUTION DETERMINATION.—Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents a choice of the Bureau funded school their child may attend, regardless of the geographical attendance area boundaries established under this section.

''(d) FUNDING RESTRICTIONS.—The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the boundaries of the geographical attendance area established for that school under this section. No funding shall be made available for transportation without tribal authorization to enable the school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

''(e) RESERVATION AS BOUNDARY.—In any case in which there is only 1 Bureau funded school located on a reservation, the boundaries of the geographical attendance area for the school shall be the boundaries (as established by treaty, agreement, legislation, court decision, or executive decision and as accepted by the tribe involved) of the reservation served, and those students residing near the reservation shall also receive services from such school.

''(f) OFF-RESERVATION HOME-LIVING SCHOOLS.—Notwithstanding the boundaries of the geographical attendance areas established under this section, each Bureau funded school that is an off-reservation home-living school shall implement special emphasis programs and permit the attendance of students requiring the programs. The programs provided for such students shall be coordinated among education line officers, the families of the students, the schools, and the entities operating 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 secure 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 required under paragraph (1), the General Accounting Office shall use the following data and methodologies:

''(A) The existing Department of Defense formula for determining the 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 methodologies 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 maximum extent practicable, consult (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 shall comply with reasonable requests for information by the General Accounting Office and shall respond to such requests in a timely fashion.

''(4) SUBMISSION TO CONGRESS.—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 the results of the national survey conducted under paragraph (1) to the Committee on Indian Affairs and Committee on Appropriations of the Senate, and the Committee on Resources, Committee on Education and the Workforce, and 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.

''(5) NEGOTIATED RULEMAKING COMMITTEE.—

''(A) 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 rule making committee pursuant to section 1136(c). The negotiated rulemaking committee shall prepare and submit to the Secretary the following:

''(i) A catalogue of the condition of school facilities at all Bureau funded schools that—

''(I) incorporates the findings from the General Accounting Office study evaluating and comparing school systems of the Department of Defense and the Bureau of Indian Affairs;

''(II) rates such facilities with respect to the rate of deterioration and useful life of structures and major systems;

''(III) establishes a routine maintenance schedule for each facility;

''(IV) identifies the complementary educational facilities that do not exist but that are needed; and

''(V) makes projections on the amount of funds needed to keep each school viable, consistent with the accreditation standards required pursuant to this Act.

''(ii) A school replacement and new construction report that determines replacement and new construction need, and a formula for the equitable distribution of funds to address such need, for Bureau funded schools. Such formula shall utilize necessary factors in determining an equitable distribution of funds, including—

''(I) the size of school;

''(II) school enrollment;

''(III) the age of the school;

''(IV) the condition of the school;

''(V) environmental factors at the school; and

''(VI) school isolation.

''(iii) A renovation repairs report that determines renovation need (major and minor), and a formula for the equitable distribution of funds to address such need, for Bureau funded schools. Such report shall identify needed repairs or renovations with respect to a facility, or a part of a facility, or the grounds of the facility, to remedy a need based on disabilities access or health and safety changes to a facility. The formula developed shall utilize necessary factors in determining an equitable distribution of funds, including the factors described in subparagraph (B).

''(B) SUBMISSION OF REPORTS.—Not later than 24 months after the negotiated rulemaking committee is established under subparagraph (A), the reports described in clauses (ii) and (iii) of subparagraph (A) shall be submitted to the committees of Congress referred to in paragraph (4), the national and regional Indian education organizations, and to all school boards of Bureau-funded schools and their respective Tribes.

''(6) FACILITIES INFORMATION SYSTEMS SUPPORT DATABASE.—The Secretary shall develop a Facilities Information Systems Support Database to maintain and update the information contained in the reports under clauses (ii) and (iii) of paragraph (5)(A) and the information contained in the survey conducted under paragraph (1). The system shall be updated every 3 years by the Bureau of Indian Affairs and monitored by General Accounting Office, and shall be made available to school boards of Bureau-funded schools and their respective Tribes, and Congress.

''(b) COMPLIANCE WITH HEALTH AND SAFETY STANDARDS.—The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of the Native American Education Improvement Act of 2001.

''(c) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (b) of this section into compliance with the standards referred to in subsection (b). Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

''(d) CONSTRUCTION PRIORITIES.—

''(1) SYSTEM TO ESTABLISH PRIORITIES.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, and publish in the Federal Register, information describing the system used by the Secretary to establish priorities for replacement and construction projects for Bureau funded schools and home-living schools, including boarding schools, and dormitories. On making each budget request described in subsection (c), the Secretary shall publish in the Federal Register and submit with the budget request a list of all of the Bureau funded school construction priorities, as described in paragraph (2).

''(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to submitting the plan described in subsection (c), the Secretary shall—

''(A) not later than 18 months after the date of enactment of the Native American Education Improvement Act of 2001, establish a long-term construction and replacement priority list for all Bureau funded schools;

''(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau funded education-related facilities over a period of 40 years to facilitate planning and scheduling of budget requests;

''(C) publish the list prepared under subparagraph (B) in the Federal Register and allow a period of not less than 120 days for public comment;

''(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

''(E) publish a final list in the Federal Register.

''(3) EFFECT ON OTHER LIST.—Nothing in this section shall be construed as interfering with or changing in any way the construction and replacement priority list established by the Secretary, as the list exists on the date of enactment of the Native American Education Improvement Act of 2001.

''(e) HAZARDOUS CONDITION AT BUREAU FUNDED SCHOOL.—

''(1) CLOSURE, CONSOLIDATION, OR CURTAILMENT.—

''(A) IN GENERAL.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of facility conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau and an individual designated by the tribe involved under subparagraph (B), determine that such conditions exist at a facility of the Bureau funded school.

''(B) DESIGNATION OF INDIVIDUAL BY TRIBE.—To be designated by a tribe for purposes of subparagraph (A), an individual shall—

''(i) be a licensed or certified facilities safety inspector;

''(ii) have demonstrated experience in the inspection of facilities for health and safety purposes with respect to occupancy; or

''(iii) have a significant educational background in the health and safety of facilities with respect to occupancy.

''(C) INSPECTION.—In making a determination described in subparagraph (A), the Bureau health and safety officer and the individual designated by the tribe shall conduct an inspection of the conditions of such facility in order to determine whether conditions at such facility constitute an immediate hazard to health and safety.

''(D) FAILURE TO CONCUR.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (A) do not concur that conditions at the facility constitute an immediate hazard to health and safety, such officer and individual shall immediately notify the tribal governing body and provide written information related to their determinations.

''(E) CONSIDERATION BY TRIBAL GOVERNING BODY.—Not later than 10 days after a tribal governing 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.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (A), concur that conditions at the facility constitute an immediate hazard to health and safety, or if the tribal governing body makes such a determination under subparagraph (E) the facility involved shall be closed immediately.

''(G) GENERAL CLOSURE REPORT.—If a Bureau funded school is temporarily closed or consolidated or the programs of a Bureau funded school are temporarily substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the appropriate committees of Congress, the affected tribe, and the local school board, not later than 3 months after the date on which the closure, consolidation, or curtailment was initiated, a report that specifies—

''(i) 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 alternate education services for students enrolled at the school that is to be closed.

''(2) NONAPPLICATION OF CERTAIN STANDARDS FOR TEMPORARY FACILITY USE.—

''(A) CLASSROOM ACTIVITIES.—The Secretary shall permit the local school board to temporarily utilize facilities adjacent to the school, or satellite facilities, if such facilities are suitable for conducting classroom activities. In permitting the use of facilities under the preceding sentence, the Secretary may waive applicable minor standards under section 1121 relating to such facilities (such as the required number of exit lights or configuration of restrooms) so long as such waivers do not result in the creation of an environment that constitutes an immediate and substantial threat to the health, safety, and life of students and staff.

''(B) ADMINISTRATIVE ACTIVITIES.—The provisions of subparagraph (A) shall apply with respect to administrative personnel if the facilities involved are suitable for activities performed by such personnel.

''(C) TEMPORARY.—In this paragraph, the term 'temporary' means—

''(i) with respect to a school that is to be closed for not more than 1 year, 3 months or less; and

''(ii) with respect to a school that is to be closed for not less than 1 year, a time period determined appropriate by the Bureau.

''(3) TREATMENT OF CLOSURE.—Any closure of a Bureau funded school under this subsection for a period that exceeds 1 month but is less than 1 year, shall be treated by the Bureau as an emergency facility improvement and repair project.

''(4) USE OF FUNDS.—With respect to a Bureau funded school that is closed under this subsection, the tribal governing body, or the designated local school board of each Bureau funded school, involved may authorize the use of funds allocated pursuant to section 1126, to abate the hazardous conditions without further action by Congress.

''(f) FUNDING REQUIREMENT.—

''(1) DISTRIBUTION OF FUNDS.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, all funds appropriated to the budget accounts for the operations and maintenance of Bureau funded schools shall be distributed by formula to the schools. No funds from these accounts may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

''(2) REQUIREMENTS FOR CERTAIN USES.—

''(A) AGREEMENT.—The Secretary shall not withhold funds that would be distributed under paragraph (1) to any grant or contract school, in order to use the funds for maintenance or any other facilities or road-related purposes, unless such school—

''(i) has consented to the withholding of such funds, including the amount of the funds, the purpose for which the funds will be used, and the timeline for the services to be provided with the funds; and

''(ii) has provided the consent by entering into an agreement that is—

''(I) a modification to the contract; and

''(II) in writing (in the case of a school that receives a grant).

''(B) CANCELLATION.—The school may, at the end of any fiscal year, cancel an agreement entered into under this paragraph, on giving the Bureau 30 days notice of the intent of the school to cancel the agreement.

''(g) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to reduce any Federal funding for a school because the school received funding for facilities improvement or construction from a State or any other source.

''SEC. 1125. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

''(a) FORMULATION AND ESTABLISHMENT OF POLICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND EXPENDITURES.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs.

''(b) DIRECTION AND SUPERVISION OF PERSONNEL OPERATIONS.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education program services by the Bureau, including school or institution custodial or maintenance personnel, and personnel responsible for contracting, a procurement, and finance functions connected with school operation programs.

''(2) TRANSFERS.—The Assistant Secretary for Indian Affairs shall, not later than 6 months after the date of enactment of the Native American Education Improvement Act of 2001, coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director.

''(c) INHERENT FEDERAL FUNCTION.—For purposes of this Act, all functions relating to education that are located at the Area or Agency level and performed by an education line officer shall be subject to contract under the Indian Self-Determination and Education Assistance Act, unless determined by the Secretary to be inherently Federal functions as defined in section 1139(9).

''(d) EVALUATION OF PROGRAMS; SERVICES AND SUPPORT FUNCTIONS; TECHNICAL AND COORDINATION ASSISTANCE.—Education personnel who are under the direction and supervision of the Director of the Office in accordance with subsection (b)(1) shall—

''(1) monitor and evaluate Bureau education programs;

''(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

''(3) provide technical and coordination assistance in areas such as procurement, contracting, budgeting, personnel, curricula, and operation and maintenance of school facilities.

''(e) CONSTRUCTION, IMPROVEMENT, OPERATION, AND MAINTENANCE OF FACILITIES.—

''(1) PLAN FOR CONSTRUCTION.—The Assistant Secretary for Indian Affairs shall submit as part 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(d);

''(B) for the improvement and repair of education facilities and for establishing priorities among the improvement and repair projects involved, which together shall form the basis for the distribution of appropriated funds; and

''(C) for capital improvements to education facilities to be made over the 5 years succeeding the year covered by the plan.

''(2) PROGRAM FOR OPERATION AND MAINTENANCE.—

''(A) IN GENERAL.—

''(i) PROGRAM.—The Assistant Secretary shall establish a program, including a program for the distribution of funds appropriated under this part, for the operation and maintenance of education facilities. Such program shall include—

''(I) a method of computing the amount necessary for the operation and maintenance of each education facility;

''(II) a requirement of 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 priority of, facilities improvement and repair projects, both major and minor; and

''(V) a system for conducting routine preventive maintenance.

''(ii) MEETINGS.—In making the determination referred to in clause (i)(IV), the Assistant Secretary shall cause a series of meetings to be conducted at the area and agency level with representatives of the Bureau funded schools in the corresponding areas and served by corresponding agencies, to receive comment on the projects described in clause (i)(IV) and prioritization of such projects.

''(B) MAINTENANCE.—The appropriate education line officers shall make arrangements for the maintenance of the education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the 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 2001.

''(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—

''(1) 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 education programs, including, in appropriate cases, the establishment and administration of trust funds.

''(2) 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 achieved by such use.

''(3) 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.

''(g) FUNCTIONS CLARIFIED.—In this section, the term 'functions' includes powers and duties.

''SEC. 1126. ALLOTMENT FORMULA.

''(a) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDS.—

''(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section 1136, a formula for determining the minimum annual 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 total 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 housing costs;

''(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 tribal 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 1121; and

''(E) such other relevant factors as the Secretary determines are appropriate including the information contained in the General Accounting Office study evaluating and 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)(i) 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

''(ii) 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.—

''(1) ANNUAL ADJUSTMENT.—

''(A) IN GENERAL.—For fiscal year 2002, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

''(i) 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;

''(ii) consider a school with an enrollment of fewer than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools;

''(iii) take into account the provision of residential services on less than a 9-month basis at a school in a case in which the school board and supervisor of the school determine that the school will provide the services for fewer than 9 months for the academic year involved;

''(iv) use a weighted factor of 2.0 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

''(v) use a weighted factor of 0.25 for each eligible Indian student who is enrolled in a year long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

''(B) TIMING.—The Secretary shall make the adjustment required under subparagraph (A)(v) for such school after—

''(i) the school board of such school provides a certification of the Indian or Native language curriculum of the school to the Secretary, together with an estimate of the number of 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

''(ii) the funds appropriated for allotments under this section are designated, in the appropriations Act appropriating such funds, as the funds necessary to implement such adjustment 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—

''(i) $8,000; or

''(ii) the lesser of—

''(I) $15,000; or

''(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

''(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 service 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.—

''(1) 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.

''(2) 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 for education 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 costs 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—

''(1) is a member of, or is at least ¼ degree Indian blood descendant of a member of, a tribe that is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians;

''(2) resides on or near a reservation or meets the criteria for attendance at a Bureau off-reservation home-living school; and

''(3) is enrolled in a Bureau funded school.

''(g) TUITION.—

''(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 if—

''(A)(i) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or 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 under this section for the fiscal year 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.—Tuition 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 in Richfield, Utah, 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 the instruction of the students.

''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—

''(A) all functions funded at Bureau schools by the Office;

''(B) all programs—

''(i) funds for which are appropriated to other agencies of the Federal Government; and

''(ii) which are administered for the benefit of Indians through Bureau schools; and

''(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

''(3) DIRECT COST BASE.—

''(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

''(i) the second fiscal year preceding such fiscal year; or

''(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

''(B) FUNCTIONS NOT PREVIOUSLY OPERATED.—In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all 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 50 percent.

''(5) MINIMUM BASE RATE.—The term 'minimum base rate' means 11 percent.

''(6) STANDARD DIRECT COST BASE.—The term 'standard direct cost base' means $600,000.

''(7) TRIBAL ELEMENTARY OR SECONDARY EDUCATIONAL PROGRAMS.—The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, 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 are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

''(b) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

''(1) GRANTS.—

''(A) IN GENERAL.—The Secretary shall provide a grant 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 Secretary or other Federal officers or 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.—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 under this section for each fiscal year 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 Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate does not apply to programs not relating to such functions that are operated by the tribe or tribal organization.

''(2) DIRECT COST BASE FUNDS.—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 the 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 exceeds 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 this subsection bears to the total of all grants determined under this subsection for all tribes and tribal organizations for such fiscal year.

''(d) ADMINISTRATIVE COST PERCENTAGE RATE.—

''(1) 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—

''(A) the sum of—

''(i) the amount equal to—

''(I) the direct cost base of the tribe or tribal organization for the fiscal year; multiplied by

''(II) the minimum base rate; plus

''(ii) the amount equal to—

''(I) the standard direct cost base; multiplied by

''(II) 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.

''(e) COMBINING FUNDS.—

''(1) IN GENERAL.—Funds received by a tribe, tribal organization, or contract or grant school through grants made under this section for tribal elementary or secondary educational programs may be combined by the tribe, tribal organization, or contract or grant school and placed into a single administrative cost account without the necessity of maintaining separate funding source accounting.

''(2) INDIRECT COST FUNDS.—Indirect cost funds for programs at the school that share common administrative services with the tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

''(f) AVAILABILITY OF FUNDS.—Funds received through a grant made under this section with respect to tribal elementary or secondary educational programs at a contract or grant school shall remain available to the contract or grant school—

''(1) without fiscal year limitation; and

''(2) without reducing the amount of any grants otherwise payable to the school under this section for any fiscal year after the fiscal year for which the grant is provided.

''(g) TREATMENT OF FUNDS.—Funds received through a grant made under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or grant shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

''(h) TREATMENT OF ENTITY OPERATING OTHER PROGRAMS.—In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

''(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

''(2) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

''(i) APPLICABILITY TO SCHOOLS OPERATING UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The provisions of this section that apply to contract or grant schools shall also apply to those schools receiving assistance under the Tribally Controlled Schools Act of 1988.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

''(k) 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 an administrative cost grant for each tribe or tribal organization expected to begin operation of a Bureau-funded school as contract or grant school in the academic year funded 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 AND 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 tribe or tribal organization operating 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 tribe or tribal organization which began operation of a contract or grant school with administrative cost grant funds supplied from the amount described in subparagraph (A).

"SEC. 1128. DIVISION OF BUDGET ANALYSIS.

''(a) ESTABLISHMENT.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (referred to in this section as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

''(b) FUNCTIONS.—In consultation with the tribal governing bodies and local school boards the Director of the Office, 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 Assistant Secretary for Indian Affairs submits the annual budget request as part of the President's 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 Education Improvement Act of 2001, the Director of the Office 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), all Bureau funded schools, and the tribal governing bodies relating to such schools, a report that shall contain—

''(1) 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;

''(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

''(3) such other information as the Director of the Office considers to be appropriate.

''(d) USE OF REPORTS.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the information contained in the annual report required by subsection (c) in preparing their annual 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 1136, 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 the allotments made under section 1126 and the allotments of funds for operation and maintenance of facilities, amounts appropriated in an appropriations Act for any fiscal year for such allotments shall become 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) PUBLICATIONS.—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 final determination that the school was overpaid pursuant to this section.

''(3) 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 $50,000 of the amount allotted to the school under section 1126 to acquire materials, supplies, equipment, operation services, maintenance services, and other services for the school, and amounts received as operations and maintenance funds, funds received from the Department of Education, or funds received from other Federal sources, without competitive bidding if—

''(i) the cost for any single item acquired does not exceed $15,000;

''(ii) the school board approves the acquisition;

''(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 school staff cite this paragraph as authority for the acquisition; and

''(v) the acquisition transaction is documented in a journal maintained at the school that clearly identifies when the transaction occurred, the 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 Education Improvement 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 education line officer of each agency and 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—

''(i) determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph;

''(ii) ensuring that there is at least 1 such individual at each Bureau facility; and

''(iii) 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 the school will expend 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 1121.

''(B) REQUIREMENT.—A local financial plan under subparagraph (A) shall comply with all applicable Federal and tribal laws.

''(C) PREPARATION AND REVISION.—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 or in response to the supervisor of the school, to 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—

''(i) shall put into effect the decisions of the school board relating to the financial plan under subparagraph (A); and

''(ii) shall provide the appropriate local union representative of the education employees of the school with copies of proposed financial plans relating to the school and all modifications and proposed modifications to the plans, and at the same time submit such copies to the local school board.

''(iii) 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, overturn 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 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 GRANT AND CONTRACT FUNDS.—The Secretary may approve applications for funding tribal divisions of education and developing tribal codes of education, from funds made available pursuant to section 103(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 Secretary. The Secretary shall, to the greatest 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 AND SUPPORT SERVICES.—

''(1) IN GENERAL.—A financial plan prepared under subsection (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 students of 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. 596, chapter 147) and this Act 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 augmented services shall be under the control of the tribe or school.

''(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, acting 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 the 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, if specifically requested by the appropriate tribal governing body, implement a cooperative agreement that is entered into between the tribe, the Bureau, the local school board, and a local public school district that meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau, the school board, and the local public school district shall determine the terms of the agreement.

''(2) COORDINATION PROVISIONS.—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.

''(3) EQUAL BENEFIT 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 commensurate with the burden assumed by the school.

''(B) LIMITATION.—Subparagraph (A) shall not be construed to require equal expenditures, or an exchange of similar services, by the Bureau school and schools in the school district.

''(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be 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 funds for construction, maintenance, and 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 or the provision of services or in-kind activity as a condition of participation in a program or project or receipt of a grant, shall apply to a Bureau funded school unless the provision of law authorizing such requirement specifies that such requirement applies to such a school.

''(B) LIMITATION.—In considering 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 of Indian affairs 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 for future action by the Secretary. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during one or more of the discussions and deliberations, 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 by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

''SEC. 1131. INDIAN EDUCATION PERSONNEL.

''(a) DEFINITIONS.—In this section:

''(1) EDUCATION POSITION.—The term 'education position' means a position in the Bureau the duties and responsibilities of which—

''(A) are performed on a school-year basis principally in a Bureau school and involve—

''(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

''(ii) 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

educational theory and practice are a formal requirement for the conduct of such activity; or

''(iv) provision of support services at, or associated with, the site of the school; or

''(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs, other than the position of agency superintendent for education.

''(2) EDUCATOR.—The term 'educator' means an individual whose services are required, or who is employed, in an education position.

''(b) CIVIL SERVICE AUTHORITIES INAPPLICABLE.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions.

''(c) REGULATIONS.—Not later than 60 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 educators and education personnel;

''(3) the fixing 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;

''(8) the conditions of employment of educators;

''(9) 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 educators, the Secretary shall require—

''(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 education or degree 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; and

''(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) 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.

''(e) HIRING OF EDUCATORS.—

''(1) REQUIREMENTS.—In prescribing regulations to govern the appointment of educators, the Secretary shall require—

''(A)(i)(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);

''(ii) each supervisor of a Bureau school shall be hired by the education line officer of the agency office of the Bureau for the jurisdiction in which the school is located;

''(iii) each educator employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office; and

''(iv) each education line officer and educator employed in the office of the Director of the Office shall be hired by the Director;

''(B)(i) that, before an individual is employed in an education position in a Bureau school by the supervisor of the school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted; and

''(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the superintendent for education of the agency office);

''(C)(i) that, before an individual is employed in an education position in an agency or area office of the Bureau, the appropriate agency school board shall be consulted; and

''(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be employed shall be instituted by the superintendent for education of the agency office; and

''(D) that all employment decisions or actions be in compliance with all applicable Federal, State and tribal laws.

''(2) INFORMATION REGARDING APPLICATION AT NATIONAL LEVEL.—

''(A) IN GENERAL.—Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position.

''(B) EFFECT OF INACCURATE STATEMENT.—If an individual described in subparagraph (A) is employed at the local level, such individual's name shall be immediately forwarded to the Secretary by the local employer. The Secretary shall, as soon as practicable but in no event later than 30 days after the receipt of the name, ascertain the accuracy of the statement made by such individual pursuant to subparagraph (A). Notwithstanding subsection (g), if the Secretary finds that the individual's statement was false, such individual, at the Secretary's discretion, may be disciplined or discharged.

''(C) EFFECT OF APPLICATION AT NATIONAL LEVEL.—If an individual described in subparagraph (A) has applied at the national level for an education position, the appointment of such individual at the local level shall be conditional for a period of 90 days. During that period, the Secretary may appoint a more qualified individual (as determined by the Secretary) from a list maintained pursuant to subsection (e)(1)(A) to the position to which such individual was appointed.

''(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) APPEALS.—

''(A) BY SUPERVISOR.—The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) 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 education line officer may, for good cause, overturn the determination of the local school board. The 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 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, as the supervisor of a school 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 agency 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 agency 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.

''(f) DISCHARGE AND CONDITIONS OF EMPLOYMENT OF EDUCATORS.—

''(1) REGULATIONS.—In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

''(A) that procedures shall be established for the rapid and equitable resolution of grievances of educators;

''(B) that no educator may be discharged without notice of the reasons for the discharge and an opportunity for a hearing under procedures that comport with the requirements of due process; and

''(C) that each educator employed in a Bureau school shall be notified 30 days prior to the end of an academic year whether the employment contract of the individual will be renewed for the following year.

''(2) PROCEDURES FOR DISCHARGE.—

''(A) DETERMINATIONS.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed 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.

''(B) APPEALS.—The supervisor shall have the right to appeal a determination by a local school board under subparagraph (A), as evidenced by

school board records, not to discharge an educator to the education line officer of the appropriate agency office of the Bureau. Upon hearing such an appeal, the agency education line officer may, for good cause, issue a decision overturning the determination of the local school board with respect to the employment of such individual. The education line officer shall make the decision in writing 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—

''(A) to recommend to the supervisor that an educator employed in the school be discharged; and

''(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 of 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 if each tribal organization concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary. This paragraph shall not be construed to relieve the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

''(2) DEFINITIONS.—In this subsection:

''(A) INDIAN PREFERENCE LAWS.—The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (48 Stat. 986, chapter 576) or any other provision of law granting a preference to Indians in promotions and other personnel actions. Such term shall not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

''(B) TRIBAL ORGANIZATION.—The term 'tribal organization' means—

''(i) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

''(ii) in connection with any personnel action referred to in this subsection, any local school board to which the governing body has delegated the authority to grant a waiver under this subsection with respect to a personnel action.

''(h) COMPENSATION OR ANNUAL SALARY.—

''(1) IN GENERAL.—

''(A) COMPENSATION FOR EDUCATORS AND EDUCATION POSITIONS.—Except as otherwise provided in this section, the Secretary shall establish the compensation or annual salary rate for educators and education positions—

''(i) at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable; or

''(ii) on the basis of the Federal Wage System schedule in effect for the locality involved, and for the comparable positions, at the rates of compensation in effect for the senior executive service.

''(B) COMPENSATION OR SALARY FOR TEACHERS AND COUNSELORS.—The Secretary shall establish the rate of compensation, or annual salary rate, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rate of compensation applicable (on the date of enactment of the Native American Education Improvement Act of 2001 and thereafter) for comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act. The Secretary shall allow the local school boards involved authority to implement only the aspects of the Defense Department Overseas Teachers Pay and Personnel Practices Act pay provisions that are considered essential for recruitment and retention of teachers and counselors. Implementation of such provisions shall not be construed to require the implementation of that entire Act.

''(C) RATES FOR NEW HIRES.—

''(i) IN GENERAL.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, each local school board of a Bureau school 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 the 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.

''(iii) DECREASES.—In an instance in which the establishment of rates under clause (i) causes a reduction in compensation at a school 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 those rates at each contract renewal for the employees so that the reduction takes effect in 3 equal installments.

''(iv) INCREASES.—In an instance in which the establishment of such rates at a school causes an increase in compensation 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 school board may apply the new rates at the next contract renewal so that either—

''(I) the entire increase occurs on 1 date; or

''(II) the increase takes effect in 3 equal installments.

''(D) ESTABLISHED REGULATIONS, PROCEDURES, AND ARRANGEMENTS.—

''(i) PROMOTIONS AND ADVANCEMENTS.—The establishment of rates of compensation and annual salary rates under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau prior to April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of an educator.

''(ii) CONTINUED EMPLOYMENT OR COMPENSATION.—The establishment of rates of compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (o), as in effect on January 1, 1990.

''(2) POST DIFFERENTIAL RATES.—

''(A) IN GENERAL.—The Secretary may pay a post differential rate not to exceed 25 percent of the rate of compensation, for educators or education positions, on the basis of conditions of environment or work that warrant additional pay, as a recruitment and retention incentive.

''(B) SUPERVISOR'S AUTHORITY.—

''(i) IN GENERAL.—Except as provided in clause (ii) on the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differential rates under subparagraph (A).

''(ii) EXCEPTION.—The Secretary shall disapprove, or approve with a modification, a request for authorization to provide a post differential rate if the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that the rate should be disapproved or decreased because the disparity of compensation between the appropriate educators or positions in the Bureau school, and the comparable educators or positions at the nearest public school, is—

''(I)(aa) at least 5 percent; or

''(bb) less than 5 percent; and

''(II) does not affect the recruitment or retention of employees at the school.

''(iii) APPROVAL OF REQUESTS.—A request made under clause (i) shall be considered to be approved at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with a modification, or disapproved by the Secretary.

''(iv) 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 differential is discontinued or decreased.

''(v) REPORTS.—On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and approvals of authorization made under this paragraph during the previous year and listing the positions receiving post differential rates under contracts entered into under those authorizations.

''(i) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (c)(9) shall not be so liquidated.

''(j) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any educator who—

''(1) is transferred, promoted, or reappointed, without a break in service, to a position in the Federal Government under a different leave system than the system for leave described in subsection (c)(9); and

''(2) earned or was credited with leave under the regulations prescribed under subsection (c)(9) and has such leave remaining to the credit of such educator;

such leave shall be transferred to such educator's credit in the employing agency for the position on an adjusted basis in accordance with regulations that shall be prescribed by the Director of the Office of Personnel Management.

''(k) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who voluntarily terminates employment under an employment contract 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.

''(l) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (a)(1)(A) who—

''(1) is employed at the end of an academic year;

''(2) agrees in writing to serve in such position for the next academic year; and

''(3) is employed in another position during the recess period immediately preceding such next academic year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation;

such section 5533 shall not apply to such educator by reason of any such employment during the recess period with respect to any receipt of additional compensation.

''(m) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school boards concerned, accept voluntary services on behalf of Bureau schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section shall be considered to be a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

''(n) PRORATION OF PAY.—

''(1) ELECTION OF EMPLOYEE.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of an educator, shall prorate the salary of the educator for an academic year over a 12-month period. Each educator employed for the academic year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

''(2) CHANGE OF ELECTION.—During the course of such academic year, the employee may change the election made under paragraph (1) once.

''(3) LUMP-SUM PAYMENT.—That portion of the employee's pay that would be paid between academic years may be paid in a lump sum at the election of the employee.

''(4) APPLICATION.—This subsection applies to educators, whether employed under this section or title 5, United States Code.

''(o) EXTRACURRICULAR ACTIVITIES.—

''(1) STIPEND.—Notwithstanding any other provision of law, the Secretary may provide, for Bureau employees in each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off for overtime work. Any employee of the Bureau who performs overtime work that consists of additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

''(2) ELECTION NOT TO RECEIVE STIPEND.—If an employee elects not to be compensated through the stipend established by this subsection, the appropriate provisions of title 5, United States Code, shall apply with respect to the work involved.

''(3) APPLICATION.—This subsection applies to Bureau employees, whether employed under this section or title 5, United States Code.

''(p) COVERED INDIVIDUALS; ELECTION.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected to be covered under this section or a corresponding provision after November 1, 1979) and to the position in which such educator is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

''(q) FURLOUGH WITHOUT CONSENT.—

''(1) IN GENERAL.—An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under subsection (p) at that time, and who did not make the election under such subsection, may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code, without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

''(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b); and

''(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

''(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

''(ii) such educators are selected based upon such educator's qualifications after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

''(2) APPEALS.—The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. 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 education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

''(r) STIPENDS.—The Secretary is authorized to provide annual stipends to teachers who become certified by the National Board of Professional Teaching Standards.

''SEC. 1132. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

''(a) IN GENERAL.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall update the computerized management information system within the Office. The information to be updated shall include information regarding—

''(1) student enrollment;
''(2) curricula;
''(3) staffing;
''(4) facilities;
''(5) community demographics;
''(6) student assessment information;
''(7) information on the administrative and program costs attributable to each Bureau program, divided into discrete elements;
''(8) relevant reports;
''(9) personnel records;
''(10) finance and payroll; and
''(11) such other items as the Secretary determines to be appropriate.

''(b) IMPLEMENTATION OF SYSTEM.—Not later than July 1 2003, the Secretary shall complete the implementation of the updated computerized management information system at each Bureau field office and Bureau funded school.

''SEC. 1133. RECRUITMENT OF INDIAN EDUCATORS.

''The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include provisions for opportunities for acquiring work experience prior to receiving an actual work assignment.

''SEC. 1134. ANNUAL REPORT; AUDITS.

''(a) ANNUAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and the tribal governing bodies of such schools, a detailed annual report on the state of education within the Bureau and any problems encountered in Indian education during the period covered by the report. Such report shall contain suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system. Such report shall also include information on the status of tribally controlled community colleges.

''(b) BUDGET REQUEST.—The annual budget request for the Bureau's education programs, as submitted as part of the President's next annual budget request under section 1105 of title 31, United States Code shall include the plans required by sections 1121(c), 1122(c), and 1124(c).

''(c) FINANCIAL AND COMPLIANCE AUDITS.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted for each Bureau school at least once in every 3 years. Such an audit of a Bureau school shall examine the extent to which such school has complied with the local financial plan prepared by the school under section 1129(b).

''(d) ADMINISTRATIVE EVALUATION OF SCHOOLS.—The Director shall, at least once every 3 to 5 years, conduct a comprehensive evaluation of Bureau operated schools. Such evaluation shall be in addition to any other program review or evaluation that may be required under Federal law.

''SEC. 1135. RIGHTS OF INDIAN STUDENTS.

''The Secretary shall prescribe such rules and regulations as may be necessary to ensure the protection of the constitutional and civil rights of Indian students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression, and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions.

''SEC. 1136. REGULATIONS.

''(a) IN GENERAL.—The Secretary may issue only such regulations as may be necessary to ensure compliance with the specific provisions of this part and only such regulations as the Secretary is authorized to issue pursuant to section 5211 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2510). In issuing the regulations, the Secretary shall publish proposed regulations in the Federal Register, and shall provide a period of not less than 120 days for public comment and consultation on the regulations. The regulations shall contain, immediately following each regulatory section, a citation to any statutory provision providing authority to issue such regulatory section.

''(b) REGIONAL MEETINGS.—Prior to publishing any proposed regulations under subsection (a) and prior to establishing the negotiated rulemaking committee under subsection (c), the Secretary shall convene regional meetings to consult with personnel of the Office of Indian Education Programs, educators at Bureau schools, and tribal officials, parents, teachers, administrators, and school board members of tribes served by Bureau funded schools to provide guidance to the Secretary on the content of regulations authorized to be issued under this part and the Tribally Controlled Schools Act of 1988.

''(c) NEGOTIATED RULEMAKING.—

''(1) IN GENERAL.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the Secretary shall promulgate regulations authorized under subsection (a) and under the Tribally Controlled Schools Act of 1988, in accordance with the negotiated rulemaking procedures provided for under subchapter III of chapter 5 of title 5, United States Code, and shall publish final regulations in the Federal Register.

''(2) EXPIRATION OF AUTHORITY.—The authority of the Secretary to promulgate regulations

under this part and under the Tribally Controlled 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 an extension of the deadline under this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for an extension of such deadline.

''(3) RULEMAKING COMMITTEE.—The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In establishing such committee, the Secretary shall—

''(A) apply the procedures provided for under subchapter III of chapter 5 of title 5, United States Code, in a manner that reflects the unique government-to-government relationship between Indian tribes and the United States;

''(B) ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by Bureau-funded schools;

''(C) select the tribal representatives of the committee from among individuals nominated by the representatives of the tribal and tribally-operated schools;

''(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) comply with the Federal Advisory Committee Act (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 provided for under this section. In the absence of a specific appropriation to carry out this subsection, the Secretary shall pay the costs of the negotiated rulemaking proceedings from the general administrative funds of the Department of the Interior.

''(d) APPLICATION OF SECTION.—

''(1) SUPREMACY OF PROVISIONS.—The provisions of this section shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this part, and the Secretary may repeal any regulation that is inconsistent with the provisions of this part.

''(2) 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. 1137. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

''(a) GRANTS.—The Secretary shall make grants to tribes, tribal organizations, and consortia 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 relationship to the total amount appropriated under subsection (g) for such fiscal year (other than amounts reserved 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 organization; or

''(iii) any tribe 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 all children under age 6 who are members of any tribe that—

''(i) is eligible to receive funds under subsection (a);

''(ii) is a member of a consortium that is eligible 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 authorized 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; or

''(C) to any consortium composed of tribes, or tribal organizations authorized by tribes to act on behalf of the tribes, that have a combined total tribal membership of fewer than 500 members.

''(c) APPLICATIONS.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a tribe, tribal organization, or consortium shall submit to the Secretary an application for the grant at such time, in such manner, and containing such information as the Secretary shall prescribe.

''(2) CONTENTS.—An application submitted under paragraph (1) shall describe the early childhood development program that the applicant desires to operate.

''(d) REQUIREMENT OF PROGRAMS FUNDED.—In operating an early childhood development program that is funded through a grant made under subsection (a), a tribe, tribal organization, or consortium—

''(1) shall coordinate the program with other childhood development programs and may provide services that meet identified needs of parents, 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 include, in the early childhood development program 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.

''(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—An entity that operates a family literacy program under this section or another similar program funded by the Bureau shall coordinate 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 dissemination of information on quality family literacy programs serving Indians.

''(f) ADMINISTRATIVE COSTS.—The Secretary shall reserve funds appropriated under subsection (g) to include in each grant made under subsection (a) an amount for administrative costs incurred by the tribe, tribal organization, or consortium involved in establishing and maintaining the early childhood development program.

''(g) 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. 1138. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

''(b) APPLICATIONS.—For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) DIVERSITY.—The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

''(d) USE.—Tribes that receive grants under this section shall use the funds made available through the grants—

''(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

''(2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and

''(3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

''(e) PRIORITIES.—In making grants under this section, the Secretary shall give priority to any application that—

''(1) includes—

''(A) assurances that the applicant serves 3 or more separate Bureau funded schools; and

''(B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools; and

''(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

''(3) provides a plan and schedule that—

''(A) provides for—

''(i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and

''(ii) the termination by the Bureau of such functions and office at the time of such assumption; and

''(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

''(e) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, a grant provided 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.

''(f) 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 governing body submits the application for the grant under subsection (c). The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

''(g) 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. 1139. DEFINITIONS.

''In this part, unless otherwise specified:

''(1) AGENCY SCHOOL BOARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), 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 number 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 school, the school board of such school shall be considered to be the agency school board. In the case of an agency serving a school or schools operated under a contract or grant, at least 1 member of the body described in subparagraph (A) shall be from such a school.

''(2) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

''(3) 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.

''(4) 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.

''(5) COMPLEMENTARY EDUCATIONAL FACILITIES.—The term 'complementary educational facilities' means educational program functional spaces including a library, gymnasium, and cafeteria.

''(6) 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.

''(7) DIRECTOR.—The term 'Director' means the Director of the Office of Indian Education Programs.

''(8) 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.

''(9) FINANCIAL PLAN.—The term 'financial plan' means a plan of services provided by each Bureau school.

''(10) 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.

''(11) INHERENTLY FEDERAL FUNCTIONS.—The term 'inherently Federal functions' means functions and responsibilities which, under section 1125(c), are non-contractible, including—

''(A) the allocation and obligation of Federal funds and determinations as to the amounts of expenditures;

''(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;

''(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;

''(H) the formulation of the Secretary's and the President's policies and their budgetary and legislative recommendations and views; and

''(I) the non-delegable statutory duties of the Secretary relating to trust resources.

''(12) 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, or independent or other school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

''(13) 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 to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that, for a school serving a substantial number of students from different tribes—

''(A) the members of the body shall be appointed by the tribal governing bodies of the tribes affected; and

''(B) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

''(14) OFFICE.—The term 'Office' means the Office of Indian Education Programs within the Bureau.

''(15) 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 this Act.

''(16) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(17) SUPERVISOR.—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

''(18) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

''(19) TRIBE.—The term 'tribe' 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 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.''.

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 relationship with, and resulting responsibilities to, Indians, finds that—

''(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

''(2) because of the Bureau of Indian Affairs' administration and domination of the contracting process under such Act, Indians have not been provided with the full opportunity 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 for the benefit of Indians 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 ensure the development of qualified people to fulfill meaningful leadership roles;

''(5) the Federal administration of education for Indian children have not effected 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 respond 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 establishment of a meaningful Indian 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 quantity and quality 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.

''(d) 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; and

''(2) that the needs may best be met through a grant process.

''(e) FEDERAL RELATIONS.—Congress declares a commitment to the policies described in this section and support, to the full extent of congressional responsibility, for Federal relations with the Indian nations.

''(f) TERMINATION.—Congress repudiates and rejects House Concurrent Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

''SEC. 5204. 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.

''(2) DEPOSIT 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 provided in this paragraph, funds made available through a grant provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which the grant may be used 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 purposes; and

''(ii) support services for the school, including transportation.

''(B) 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 if 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).

''(4) WAIVER OF FEDERAL TORT CLAIMS ACT.—Notwithstanding section 314 of the Department of Interior and Related Agencies 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 not funded by the Federal agency. Nothing in the preceding sentence shall be construed to apply to—

''(A) the employees of the school involved; and

''(B) any entity that enters into a contract with a grantee under this section.

''(b) LIMITATIONS.—

''(1) 1 GRANT PER TRIBE OR ORGANIZATION PER FISCAL YEAR.—Not more than 1 grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

''(2) NONSECTARIAN USE.—Funds made available through any grant provided under this part may not be used in connection with religious worship or sectarian instruction.

''(3) ADMINISTRATIVE COSTS LIMITATION.—Funds made available through any grant provided under this part may not be expended for administrative cost (as defined in section 1127(a) of the Education Amendments of 1978) in excess of the amount generated for such cost under the formula established in section 1127 of such Act.

''(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOL SITES.—

''(1) IN GENERAL.—In the case of a recipient of a grant under this part that operates schools at more than 1 school site, the grant recipient may expend not more than the lesser of—

''(A) 10 percent of the funds allocated for such school site, under section 1126 of the Education Amendments of 1978; or

''(B) $400,000 of such funds;

at any other school site.

''(2) DEFINITION OF SCHOOL SITE.—In this subsection, the term 'school site' means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discrete student count is identified under the funding formula established under section 1126 of the Education Amendments of 1978.

''(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

''(1) to require a tribe or tribal organization to apply for or accept; or

''(2) 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 administer all of, or any portion of, any Bureau program. The submission of such applications and the timing of such applications shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring the grant recipient to make any grant under this part to any other entity.

''(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide an educational program.

''(f) RETROCESSION.—

''(1) IN GENERAL.—Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective on a date specified by the Secretary that is not later than 120 days after the date on which the tribal governing body requests the retrocession. A later date may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

''(2) STATUS AFTER RETROCESSION.—The tribe requesting retrocession shall specify whether the retrocession relates to status as a Bureau operated school or as a school operated under a contract under the Indian Self-Determination Act.

''(g) 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—

''(1) with assistance under this part; or

''(2) upon assumption of operation of the program under this part if the school was a Bureau funded school before receiving assistance under this part.

''(h) 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.

"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—

''(1) 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 tribally controlled school eligible for assistance under this part that is operated by such Indian tribe or tribal organization, including funds provided under such sections, or under any other provision of law, for transportation costs for such school;

''(2) to 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 or any other provision of law, other facilities accounts for such school for such fiscal year (including accounts for facilities referred to in section 1125(e) of the Education Amendments of 1978 or any other law); and

''(3) the total amount of funds that are allocated to such school for such fiscal year under—

''(A) title I of the Elementary and Secondary Education Act of 1965;

''(B) the Individuals with Disabilities Education Act; and

''(C) any other Federal education law.

''(b) SPECIAL RULES.—

''(1) IN GENERAL.—

''(A) APPLICABLE PROVISIONS.—Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) 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—

''(i) title I of the Elementary and Secondary Education Act of 1965;

''(ii) the Individuals with Disabilities Education Act; or

''(iii) 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, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply 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.—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; and

''(C) any other Federal education law, that are distributed through the Bureau.

''(4) ACCOUNTS; USE OF CERTAIN FUNDS.—

''(A) SEPARATE ACCOUNT.—Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant provided under section 5204(a), the grant recipient shall maintain a separate account for such funds. At the end of the period designated for the work covered by the funds received, the grant recipient shall submit to the Secretary a separate accounting of the work done and the funds expended. Funds received from those accounts may only be used for the purpose for which the funds were appropriated and for the work encompassed by the application or submission for which the funds were received.

''(B) REQUIREMENTS FOR PROJECTS.—

''(i) REGULATORY REQUIREMENTS.—With respect to a grant to a tribally controlled school under this part for new construction or facilities improvements and repair in excess of $100,000, such grant shall be subject to the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in part 12 of title 43, Code of Federal Regulations.

''(ii) EXCEPTION.—Notwithstanding clause (i), grants described in such clause shall not be subject to section 12.61 of title 43, Code of Federal Regulations. The Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed.

''(iii) APPLICATIONS.—In considering applications for a grant described in clause (i), the Secretary shall consider whether the Indian tribe or tribal organization involved would be deficient 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. 2005(a)) with respect to organizational and financial management capabilities.

''(iv) DISPUTES.—Any disputes between the Secretary and any grantee concerning a grant described in clause (i) 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.

''(D) PERIOD.—Where 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 period for the work 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 FUNDS.—

''(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's grant under this part the funds described in subsection (a)(2) within 180 days after the filing of the request, 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) RIGHTS.—A tribe or organization described in subparagraph (A) may enforce its rights under subsection (a)(2) and this paragraph, including rights relating to any denial or failure to act on such tribe's or organization's request, pursuant to the dispute authority described in section 5209(e).

''SEC. 5206. ELIGIBILITY FOR GRANTS.

''(a) RULES.—

''(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

''(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

''(B) was a Bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

''(C) is not a Bureau funded school, but has met the requirements of subsection (c); or

''(D) is a school with respect to which an election has been made under paragraph (2) and that has met the requirements of subsection (b).

''(2) NEW SCHOOLS.—Notwithstanding paragraph (1), for purposes of determining eligibility for assistance under this part, any application that has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe or tribal organization for a school that is not in operation on the date of enactment of the Native American Education Improvement Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

''(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

''(1) BUREAU FUNDED SCHOOLS.—A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on the date of enactment of the Native American Education Improvement Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

''(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

''(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

''(ii) make a determination as to whether the school is eligible for assistance under this part; and

''(B) the Secretary makes a determination that the school is eligible for assistance under this part.

''(2) CERTAIN ELECTING SCHOOLS.—

''(A) DETERMINATION.—By not later than 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

''(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.

''(B) CONSIDERATION; TRANSFERS AND ELIGIBILITY.—In considering applications submitted under paragraph (1)(A), the Secretary—

''(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

''(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school and will not carry out the purposes of this Act.

''(C) CONSIDERATION; POSSIBLE DEFICIENCIES.—In considering applications submitted under paragraph (1)(A), the Secretary shall only consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

''(i) equipment;

''(ii) bookkeeping and accounting procedures;

''(iii) ability to adequately manage a school; or

''(iv) adequately trained personnel.

''(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL THAT IS NOT A BUREAU FUNDED SCHOOL.—

''(1) IN GENERAL.—A school that is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

''(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this part; and

''(B) the Secretary makes a determination that the school is eligible for assistance under this part.

''(2) DEADLINE FOR DETERMINATION BY SECRETARY.—

''(A) DETERMINATION.—By not later than 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

''(B) FACTORS.—In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

''(i) With respect to the applicant's proposal—

''(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

''(II) geographic and demographic factors in the affected areas;

''(III) adequacy of the applicant's program plans;

''(IV) geographic proximity of comparable public education; and

''(V) the needs to be met by the school, as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations.

''(ii) With respect to all education services already available—

''(I) geographic and demographic factors in the affected areas;

''(II) adequacy and comparability of programs already available;

''(III) consistency of available programs with tribal education codes or tribal legislation on education; and

''(IV) the history and success of those services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

''(C) EXCEPTION REGARDING PROXIMITY.—The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

''(D) INFORMATION ON FACTORS.—An application submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers to be appropriate.

''(E) TREATMENT OF LACK OF DETERMINATION.—If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application—

''(i) the Secretary shall be deemed to have made a determination that the tribally controlled school is eligible for assistance under this part; and

''(ii) the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

''(d) FILING OF APPLICATIONS AND REPORTS.—

''(1) IN GENERAL.—Each application or report submitted to the Secretary under this part, and any amendment to such application or report, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which the filing occurs shall, for purposes of this part, be treated as the date on which the application, report, or amendment was submitted to the Secretary.

''(2) SUPPORTING DOCUMENTATION.—

''(A) IN GENERAL.—Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the appropriate tribal governing body concerning authorizing such application.

''(B) AUTHORIZATION ACTION.—The Secretary shall administer the requirement of subparagraph (A) in a manner so as to ensure that the tribe involved, through the official action of the tribal governing body, has approved of the application for the grant.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as making a tribal governing body (or tribe) that takes an action described in subparagraph (A) a party to the grant (unless the tribal governing body or the tribe is the grantee) or as making the tribal governing body or tribe financially or programmatically responsible for the actions of the grantee.

''(3) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as making a tribe act as a surety for the performance of a grantee under a grant under this part.

''(4) CLARIFICATION.—The provisions of paragraphs (2) and (3) shall be construed as a clarification of policy in existence on the date of enactment of the Native American Education Improvement Act of 2001 with respect to grants under this part and shall not be construed as altering such policy or as a new policy.

''(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided in subsection (c)(2)(E), a grant provided under this part shall be made, and any transfer of the operation of a Bureau school made under subsection (b) shall become effective, beginning on the first day of the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or on an earlier date determined by the Secretary.

''(f) 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 subsection (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 to cure all stated objections;

''(C) at the request of the tribe or tribal organization, provide to the tribe or tribal organization a hearing on the record regarding the refusal or determination involved, under the same rules and regulations as apply under the Indian 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 submit the determinations of the Secretary with respect to such reconsideration to the tribe or the tribal organization.

''(g) 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 President is required to submit to Congress a budget of the United States Government under section 1105 of title 31, United States Code.

''SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

''(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of 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.

''(b) ANNUAL REPORTS.—

''(1) IN GENERAL.—Each recipient of a grant provided under this part for a school shall prepare an annual report concerning the school involved, the contents of which shall be limited to—

''(A) an annual financial statement reporting revenue and expenditures as defined by the 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;

''(D) an annual submission to the Secretary containing information on the number of students served and a brief description of programs offered through the grant; and

''(E) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

''(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 tribal governing body has received the report sent pursuant to subparagraph (A), the recipient of the grant shall send a copy of the report to the Secretary.

''(c) REVOCATION OF ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary may not revoke a determination that a school is eligible for assistance under this part if—

''(A) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

''(B) at least 1 of the following conditions applies with respect to the school:

''(i) The school is certified or accredited by a State certification or regional accrediting association or is a candidate in good standing for such certification or accreditation under the rules of the State certification or regional accrediting association, showing that credits achieved by the students within the education programs of the school are, or will be, accepted at grade level by a State certified or regionally accredited institution.

''(ii) The Secretary determines that there is a reasonable expectation that the certification or accreditation described in clause (i), or candidacy in good standing for such certification or accreditation, will be achieved by the school within 3 years. The school seeking accreditation shall remain under the standards of the Bureau in effect on the date of enactment of the Native American Education Improvement Act of 2001 until such time as the school is accredited, except that if the Bureau standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

''(iii) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized State certification or regional accrediting agency.

''(iv)(I) With respect to a school that lacks accreditation, or that is not a candidate for accreditation, based on circumstances that are not beyond the control of the school board, every 3 years an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to the date of enactment of the Native American Education Improvement Act of 2001.

''(II) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, subclause (I) shall not apply.

''(III) A positive assessment by an impartial evaluator under this clause shall not affect the revocation of a determination of eligibility by the Secretary where such revocation is based on circumstances that were within the control of the school board.

''(2) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary may not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

''(A) provides notice, to the tribally controlled school involved and the appropriate tribal governing body (within the meaning of section 1139 of the Education Amendments of 1978) for the tribally controlled school, which notice identifies—

''(i) the specific deficiencies that led to the revocation or reassumption determination; and

''(ii) the specific actions that are needed to remedy such deficiencies; and

''(B) affords such school and governing body an opportunity to implement the remedial actions.

''(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 and governing body—

''(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 5206(f)(1)(C); and

''(B) an opportunity to appeal the decision resulting from the hearing.

''(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION 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 may not revoke eligibility for assistance under this part except in conformance with subsection (c).

''SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS; STATE PAYMENTS TO SCHOOLS.

''(a) PAYMENTS.—

''(1) MANNER OF PAYMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grant recipients under this part in 2 payments, of which—

''(i) the first payment shall be made not later than July 1 of each year in an amount equal to 80 percent of the amount that the grant recipient was entitled to receive during the preceding academic year; and

''(ii) the second payment, consisting of the remainder to which the grant recipient was entitled for the academic year, 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 (A)(i) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was overpaid pursuant to this section. The amount returned to the Secretary under this subparagraph shall be distributed equally to all schools in the system.

''(2) NEWLY FUNDED SCHOOLS.—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 the academic year.

''(3) LATE FUNDING.—With regard to funds for grant recipients under this part that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to the grant recipients not later than December 1 of the fiscal year.

''(4) 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).

''(5) RESTRICTIONS.—Payments made under paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that is imposed by a continuing resolution or other Act appropriating the funds involved.

''(b) INVESTMENT OF FUNDS.—

''(1) TREATMENT OF INTEREST AND INVESTMENT INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues on 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) PERMISSIBLE INVESTMENTS.—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 objectives 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) deposited only into 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) RECOVERIES.—Funds received under this part shall not be taken into consideration by any Federal agency for the purposes of making underrecovery and overrecovery determinations for any other funds, from whatever source derived.

''(d) PAYMENTS BY STATES.—

''(1) IN GENERAL.—With respect to a school that receives assistance under this part, a State shall not—

''(A) take 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) VIOLATIONS.—

''(A) IN GENERAL.—Upon receipt of any information from any source that a State is in violation of paragraph (1), the Secretary shall immediately, but in no case later than 90 days after the receipt of such information, conduct an investigation and make a determination of 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 audits).

''(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 property).

''(6) Section 105(k) (relating to access to Federal sources of supply).

''(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).

''(8) Section 106(f) (relating to limitation on remedies relating to cost disallowances).

''(9) Section 106(j) (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 reassumption).

''(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

''(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 any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

''(d) TRANSFERS AND CARRYOVERS.—

''(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or 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 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) FUNDS.—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 rather than to continue 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 or was operated as a contract school, respectively.

''(3) FUNDING FOR SCHOOL IMPROVEMENT.—Any tribe or tribal organization that assumes operation of a Bureau school or a contract 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.

''(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—

''(1) IN GENERAL.—Any exception or problem cited in an audit conducted pursuant to 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 an administrative cost grant 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.

''(2) ADMINISTRATIVE APPEALS.—The Equal Access to Justice Act (as amended) and the amendments made by such Act, including section 504 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 of such Office.

''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 CONTROLLED GRANT 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 purposes of this section.

''(2) 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 from grants provided 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.

''(b) INTEREST.—Interest from the fund established under subsection (a) may periodically 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.

''In this part:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

''(2) ELIGIBLE INDIAN STUDENT.—The term 'eligible Indian student' has the meaning given such term in section 1126(f) of the Education Amendments of 1978.

''(3) 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.

''(4) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, 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 Alaskan 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 authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or 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 Interior.

''(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 Indians that—

''(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of 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 part 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. LEASE PAYMENTS BY THE OJIBWA INDIAN SCHOOL.

(a) IN GENERAL.—Notwithstanding the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), or the regulations promulgated under such Act, the Ojibwa Indian School located in Belcourt, North Dakota, may use amounts received under such Act to enter into, and make payments under, a lease described in subsection (b).

(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 maximum 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 93–638); 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 unpaid under leases entered into prior to the date of enactment of this Act.

(c) 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 amounts are made available to make payments under leases entered into by Indian schools under the Indian Self-Determination and Education Assistance Act (Public Law 93–638).

(d) OPERATION AND MAINTENANCE FUNDING.—The Bureau of Indian Affairs shall provide funding for the operation and maintenance of the facilities and property used by the Ojibwa Indian School under the lease entered into under subsection (a) so long as such facilities and property are being used by the School for educational purposes.

SEC. 1223. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

Section 5404(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments Act of 1988 (25 U.S.C. 13d–2(a)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

''(a) IN GENERAL.—The Secretary of the Interior shall not disqualify from 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 general assistance payments (or exclude such 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, local 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 listed in title 36 of the United States Code as a patriotic society, that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

(b) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1).

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d–2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) DEFINITIONS AND RULE.—

(1) DEFINITIONS.—In this section:

(A) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''secondary school'', and ''State educational agency'' have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term ''youth group'' means any group or organization intended to serve young people under the age of 21 and which is listed in title 36 of the United States Code as a patriotic society.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

SEC. 1303. EFFECTIVE DATE.

This title takes effect 1 day after the date of enactment of this Act.

TITLE XIV—INDIVIDUALS WITH DISABILITIES

SEC. 1401. DISCIPLINE.

Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by adding at the end the following:

''(n) UNIFORM POLICIES.—

''(1) IN GENERAL.—Subject to paragraph (2), and notwithstanding any other provision of this Act, a State educational agency or local educational agency may establish and implement uniform policies regarding discipline and order applicable to all children under the jurisdiction of the agency to ensure the safety of such children and an appropriate educational atmosphere in the schools under the jurisdiction of the agency.

''(2) LIMITATION.—

''(A) IN GENERAL.—A child with a disability who is removed from the child's regular educational placement under paragraph (1) shall receive a free appropriate public education which may be provided in an alternative educational setting if the behavior that led to the child's removal is a manifestation of the child's disability, as determined under subparagraphs (B) and (C) of subsection (k)(4).

''(B) MANIFESTATION DETERMINATION.—The manifestation determination shall be made immediately, if possible, but in no case later than 10 school days after school personnel decide to remove the child with a disability from the child's regular educational placement.

''(C) DETERMINATION THAT BEHAVIOR WAS NOT MANIFESTATION OF DISABILITY.—If the result of the manifestation review is a determination that the behavior of the child with a disability was not a manifestation of the child's disability, appropriate school personnel may apply to the child the same relevant disciplinary procedures as would apply to children without a disability.'' .

SEC. 1402. PROCEDURAL SAFEGUARDS.

Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) (as amended by section 1401) is amended by adding at the end the following:

''(o) DISCIPLINE DETERMINATIONS BY LOCAL AUTHORITY.—

''(1) INDIVIDUAL DETERMINATIONS.—In carrying out any disciplinary policy described in subsection (n)(1), school personnel shall have discretion to consider all germane factors in each individual case and modify any disciplinary action on a case-by-case basis.

''(2) DEFENSE.—Nothing in subsection (n) precludes a child with a disability who is disciplined under such subsection from asserting a defense that the alleged act was unintentional or innocent.

''(3) LIMITATION.—

''(A) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with a manifestation determination under subsection (n)(2), the parents or the agency may request a review of that determination through the procedures described in subsections (f) through (i).

''(B) PLACEMENT DURING REVIEW.—During the course of any review proceedings under subparagraph (A), the child shall receive a free appropriate public education which may be provided in an alternative educational placement.''.

SEC. 1403. ALTERNATIVE EDUCATION FOR CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—At the written request of a parent (as defined in section 602(19)(A) of the Individuals with Disabilities Education Act) of a child with a disability (as defined in section 602(3) of such Act), a local educational agency in which the child resides, or a State educational agency that is responsible for educating the child, may transfer the child to any accredited school that—

(1) is specifically designed to serve children with disabilities;

(2) is selected by the child's parents;

(3) agrees to accept the child; and

(4) carries out a program that the local educational agency, or State educational agency, if appropriate, determines will benefit the child.

(b) PAYMENT TO SCHOOL; LIMITATION ON FURTHER RESPONSIBILITY.—

(1) IN GENERAL.—For each year for which a child with a disability attends a school pursuant to subsection (a), the local educational agency or State educational agency shall pay the school, from amounts available to the agency under part B of the Individuals with Disabilities Education Act, an amount equal to the per-pupil expenditure for all children in its public elementary and secondary schools, or, in the case of a State educational agency, the average per-pupil expenditure for the State, as defined in section 3(2) of the Elementary and Secondary Education Act of 1965.

(2) TRANSFER.—Notwithstanding any other provision of law, a local educational agency or State educational agency that transfers a child with a disability to a school under subsection (a) shall have no other responsibility for the education of the child while the child attends that school.

(c) USE OF FUNDS; ADDITIONAL CHARGES TO PARENTS.—A school receiving funds under subsection (b)(1)—

(1) shall use the funds only to meet the costs of the child's attendance at the school; and

(2) may, notwithstanding any other provision of law, charge the child's parents for the costs of the child's attendance at the school that exceed the amount of those funds.

TITLE XV—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

SEC. 1501. SHORT TITLE.

This title may be cited as the ''Equal Access to Public School Facilities Act''.

SEC. 1502. EQUAL ACCESS.

No public elementary school, public secondary school, local educational agency, or State educational agency may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group listed in title 36 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 XVI—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 MOTIVATION.

''(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 youngest and neediest children in the United States.

''(b) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading Is Fundamental (RIF) (hereafter in this section referred to as 'the contractor') to support and promote programs, which include the distribution of inexpensive books to young and school age children, that motivate children to read.

''(c) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (b) shall—

''(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age, including those in family literacy programs;

''(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

''(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

''(A) low-income children, particularly in high-poverty areas;

''(B) children at risk of school failure;

''(C) children with disabilities;

''(D) foster children;

''(E) homeless children;

''(F) migrant children;

''(G) children without access to libraries;

''(H) institutionalized or incarcerated children; and

''(I) children whose parents are institutionalized or incarcerated;

''(4) provide that the contractor will provide such training and technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

''(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

''(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

''(d) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

''(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS.—

''(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating programs under this section in low-income communities with a substantial 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 program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

''(2) WAIVER 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 not be able 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.

''(f) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

''(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

''(2) the subcontract does not undermine the finances of the national program.

''(g) DEFINITION OF FEDERAL SHARE.—For the purpose of this section, the term 'Federal share' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

''(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''PART B—NATIONAL WRITING PROJECT

''SEC. 11151. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) the United States faces a continuing crisis in writing in schools and in the workplace;

''(2) the writing problem has been magnified by the rapidly changing student population, the growing number of at-risk students due to limited English proficiency, the shortage of adequately trained teachers, and the specialized knowledge required of teachers to teach students with special needs who are now part of mainstream classrooms;

''(3) nationwide reports from universities and colleges show that entering students are unable to meet the demands of college level writing, almost all 2-year institutions of higher education offer remedial writing courses, and three-quarters of public 4-year institutions of higher education and half of all private 4-year institutions of higher education must provide remedial courses in writing;

''(4) American businesses and corporations are concerned about the limited writing skills of both entry-level workers and executives whose promotions are denied due to inadequate writing abilities;

''(5) writing is fundamental to learning, including learning to read, yet writing has been neglected historically in schools and in teacher training institutions;

''(6) writing is a central feature in State and school district education standards in all disciplines;

''(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, the goals of which are to improve student achievement in writing and student learning through improving the teaching and uses of writing at all grade levels and in all disciplines;

''(8) the National Writing Project is a nationally recognized and honored nonprofit organization that improves the quality of teaching and teachers 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 improving the teaching of writing, student performance in 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 the National Writing Project network of sites 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 ongoing 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 use of writing as a part 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 the provisions of this section.

''(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 college;

''(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 such teacher training programs.

''(d) FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), 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.

''(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (e) 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) advise 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 reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (h) for fiscal year 2002 and the 6 succeeding fiscal years to conduct the evaluation described in paragraph (1).

''(g) APPLICATION REVIEW.—

''(1) REVIEW BOARD.—The National Writing Project shall establish and operate a National Review Board that shall consist of—

''(A) leaders in the field of research in writing; and

''(B) such other 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. 11201. 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 public investment in the principle that high quality preschool television programming will help children be ready to learn by the time the children entered first grade.

''(2) The Ready to Learn Television Program through the Public Broadcasting Service (PBS) and local public television stations has proven to be an extremely cost-effective national response to improving early childhood cognitive development and helping parents, caregivers, and professional child care providers learn how to use television as a means to help children learn and develop social skills and values.

''(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.

''(5) Through the Nation's 350 local public television stations, these programs and other programming elements reach tens of millions of children, their parents, and caregivers without regard to their economic circumstances, 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.

''(6) The Ready to Learn Television Program supports thousands of local workshops organized and run by local public television stations, child care 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 6,312,000 children across the Nation.

''(7) 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.

''(8) Ready to Learn Television stations also have distributed millions of age-appropriate books in their communities. Each station receives a minimum of 300 books each month for free local distribution. Some stations are now distributing more than 1,000 books per month. Nationwide, more than 653,494 books have been distributed in low-income and disadvantaged neighborhoods free of charge.

''(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 an equally crucial role for children in the digital television age.

''SEC. 11202. READY TO LEARN.

''(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities described in section 11203(b) 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) AVAILABILITY.—In making such grants, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, their parents, child care workers, and

Head Start providers to increase the effective use of such programming.

"SEC. 11203. 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) accompanying support materials and services that promote the effective use of such programming;

''(2) facilitate the development of programming and 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 national distribution of educational and instructional television programming of high quality for preschool and elementary school children;

''(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.

"SEC. 11204. DUTIES OF SECRETARY.

''The Secretary is authorized—

''(1) to award grants to eligible entities described in section 11203(b), local 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 in limited English proficient households, 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 that promote school readiness;

''(D) developing and disseminating education and training materials, including—

''(i) interactive 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 interactions;

''(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 development personnel, elementary school teachers, public libraries, and afterschool program personnel caring for preschool and elementary school children; and

''(E) distributing books to low-income individuals to leverage high-quality television programming;

''(2) to establish within the Department a clearinghouse to compile and provide information, referrals, and model program materials and programming obtained or developed under this subpart to parents, child care providers, 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, including programs under the Head Start Act and Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under paragraph (1)(D) to enhance parent and child care provider skills in early childhood development and education.

"SEC. 11205. APPLICATIONS.

''Each entity desiring a grant under section 11202 or 11204 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 11206. REPORTS AND EVALUATION.

''(a) ANNUAL REPORT TO SECRETARY.—An eligible entity receiving funds under section 11202 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under section 11202, including—

''(1) the programming that has been developed directly or indirectly by 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 section.

"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 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 fiscal 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 1995, the Telecommunications Demonstration Project for Mathematics (as established under this part pursuant to the Improving America's Schools Act of 1994) has allowed the Public Broadcasting 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 professionally facilitated 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 link the digitized 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 higher education to improve preservice teacher training.

''(5) Over the past several years tremendous progress has been made in wiring 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 networks provide high-quality video programs, and teacher professional development, as a part of their mission to serve local schools. Programs distributed by public broadcast stations are used by more classroom teachers than any other because of their high quality and relevance to the curriculum.

''(9) Digital broadcasting can dramatically increase and improve the types of services 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 the purpose of 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 school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of standards-based curricula 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 nonprofit public telecommunications entities, and national education professional associations that have developed content standards in the subject areas;

''(3) ensure that a 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) contain 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(a) 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 such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 11254. REPORTS AND EVALUATION.

''An eligible entity receiving funds under section 11252(a) shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall described the program activities undertaken with funds received under section 11252(a), including—

''(1) the core curriculum areas for which program activities have been undertaken and the number of teachers using the program in each core curriculum area; and

''(2) the States in which teachers using the program are located.

"SEC. 11255. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants under section 11252(b) to eligible entities to facilitate the development of educational programming that shall—

''(1) include student assessment tools to give feedback on student performance;

''(2) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

''(3) be created for, or adaptable to, State and local content standards; and

''(4) be capable of distribution through digital broadcasting and school digital networks.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under section 11252(b), an entity shall be a local public telecommunications entity as defined by section 397(12) of the Communications Act of 1934 that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

''(c) COMPETITIVE BASIS.—Grants under section 11252(b) shall be awarded on a competitive basis as determined by the Secretary.

''(d) DURATION.—Each grant under section 11252(b) shall be awarded for a period of 3 years 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(b) shall contribute to the activities assisted under section 11252(b) non-Federal matching funds equal to not less than 100 percent of the amount of the grant. Matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

"SEC. 11257. ADMINISTRATIVE COSTS.

''With respect to the implementation of section 11252(b), entities receiving a grant from 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 only 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 32d Annual Phi Delta Kappa/Gallup Poll of 2000 indicated that preparing students to become responsible citizens was the most important purpose of public schools;

''(5) Americans surveyed by the Organization of Economic Cooperation and Development indicated that only 59 percent had confidence that schools have a major effect on the development of good citizenship;

''(6) teachers too 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 history;

''(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 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 are 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; and

''(11) 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; and

''(3) to improve the quality of civic education and economic education through cooperative civic education and economic education exchange programs with emerging democracies.

"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 11305 and 11306; and

''(B) the National Council on Economic Education to carry out economic education activities under section 11306.

''(2) CONSULTATION.—The Secretary shall award the grants and contracts under this part in consultation with the Secretary of State.

''(b) DISTRIBUTION.—The Secretary shall use not more than 50 percent of the amount appropriated under section 11307(b) for each fiscal year to carry out economic education activities under section 11306.

"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—

''(A) shall 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) shall enhance student attainment of challenging content standards in civics and government;

''(C) shall provide a course 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) shall provide, at the request of a participating school, school and community simulated congressional hearings following the course of study;

''(E) shall provide an annual national competition of simulated congressional hearings for secondary school students who wish to participate in such a program; and

''(F) shall provide—

''(i) advanced sustained and ongoing training of teachers about the Constitution of the United States and the political system the United States created;

''(ii) materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

''(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 elementary schools and secondary schools, including Bureau funded schools, in the 435 congressional districts, and 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 shall use funds awarded under section 11304(a)(1)(A) 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 governments 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) 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.

''(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 EDUCATION EXCHANGE PROGRAMS.—The Center for Civic Education and the National Council on Economic Education shall use funds awarded under section 11304(a)(1) to carry out Cooperative Education Exchange programs in accordance with this section.

''(b) PURPOSE.—The purpose of the Cooperative Education Exchange programs provided under this section shall be to—

''(1) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, and economics education, developed in the United States;

''(2) assist eligible countries in the adaptation, implementation, and institutionalization of such programs;

''(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, and economic education, among political, 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 of character essential for the preservation and improvement of constitutional democracy; 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 Education Exchange programs shall—

''(1) provide eligible countries with—

''(A) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

''(B) visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education, and economic education, in the United States;

''(C) translations and adaptations regarding United States civic and government education, and economic education, curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas; and

''(D) 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 constitutional democracy; and

''(ii) effective participation in and the preservation and improvement of an efficient market economy;

''(2) provide United States participants with—

''(A) seminars on the histories, economies, and systems of government of eligible countries;

''(B) visits to school systems, institutions of higher education, and organizations conducting exemplary programs in civics and government education, and economic education, located in eligible countries;

''(C) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government, and economy of such countries that are useful in United States classrooms;

''(D) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; 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 constitutional democracy; and

''(ii) effective participation in and improvement of an efficient market economy; and

''(3) assist participants from eligible countries and the United States to participate in conferences on civics and government education, and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

''(e) PARTICIPANTS.—The primary participants in the Cooperative Education Exchange programs assisted 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.

''(f) 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 may include the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country, as defined in section 209(d) of the Education for the Deaf 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 2001'.

"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 professionals in the public schools, are needed to provide equal educational opportunities.

''(2) Due to the wide dispersal of students who are gifted and talented and the national 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 for 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 lose their motivation and develop poor study habits that are difficult to break.

''(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 receive training on meeting the needs of students who are gifted and talented.

''SEC. 11403. CONDITIONS ON EFFECTIVENESS OF SUBPART 2.

''(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. 11411. PURPOSE.

''The purpose of this subpart is to initiate a coordinated program of research, demonstration projects, innovative strategies, and similar activities designed to build a nationwide capability in elementary schools and secondary schools to meet the special educational needs of gifted and talented students.

''SEC. 11412. GRANTS 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 subpart in any fiscal year, the Secretary shall make grants to, or enter into contracts with, 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) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of 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 to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

''(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

''(B) the proposed programs can be evaluated.

''(b) USES OF FUNDS.—Programs and projects assisted under this subpart may include the following:

''(1) Carrying out—

''(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

''(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purpose of this subpart.

''(2) Professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

''(3) Establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, including summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education.

''(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

''(5) Programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

''SEC. 11413. PROGRAM PRIORITIES.

''(a) GENERAL PRIORITY.—In the administration of this subpart, the Secretary shall give highest priority to programs and projects designed to develop new information that—

''(1) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; and

''(2) assists schools in the identification of, and provision of services to, gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with disabilities).

''(b) SERVICE PRIORITY.—In approving applications for assistance under section 11412(a)(2), the Secretary shall ensure that in each fiscal year at least ½ of the applications approved under such section address the priority described in subsection (a)(2).

''SEC. 11414. CENTER FOR RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Research Center in the Education of Gifted and Talented Children and Youth through grants to or contracts with 1 or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in section 11412.

''(b) DIRECTOR.—Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

''(c) FUNDING.—The Secretary may use not more than 30 percent of the funds made available under this subpart for any fiscal year to carry out this section.

''SEC. 11415. GENERAL PROVISIONS FOR SUBPART.

''(a) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary—

''(1) shall use a peer review process in reviewing applications under sections 11415(d) and 11412;

''(2) shall ensure that information on the activities and results of programs and projects funded under this subpart is disseminated to appropriate State and local educational agencies and other appropriate organizations, including nonprofit private organizations; and

''(3) shall evaluate the effectiveness of programs under this subpart, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act.

''(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who—

''(1) shall serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs;

''(2) shall assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students; and

''(3) shall disseminate and consult on the information developed under this subpart with other offices within the Department.

''(c) COORDINATION.—Research activities supported under this subpart—

''(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

''(2) may include collaborative research activities which are jointly funded and carried out with such Office.

''(d) GRANTS TO STATE EDUCATIONAL AGENCIES FOR AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—For fiscal year 2002 and succeeding fiscal years, the Secretary shall use the excess amount of funds under subpart 1 to award grants, on a competitive basis, to State educational agencies to begin implementing activities described in section 11422(b).

''(2) EXCESS AMOUNT.—For purposes of paragraph (1), the excess amount described in this subsection is the amount (if any) by which the funds appropriated to carry out this subpart for the fiscal year exceed such funds appropriated for fiscal year 2001.

''(3) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary that contains the assurances described in section 11424(b), 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 services designed to meet the needs of the Nation's gifted and talented students in elementary schools 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 consist of the allotment determined for the State under section 11423.

''(b) AUTHORIZED ACTIVITIES.—Each State receiving a grant under this subpart shall use the funds provided under the grant to assist local educational agencies in the State to develop or expand gifted and talented education programs through 1 or more of the following activities:

''(1) Development and implementation of programs to address State and local needs for inservice training programs for general educators, specialists in gifted and talented education, administrators, or other personnel at the elementary school and secondary school levels.

''(2) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

''(3) Supporting innovative approaches and curricula used by local educational agencies (or consortia of such agencies) or schools (or consortia of schools).

''(4) Providing funds for challenging, high-level course work, disseminated through new and emerging technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that do not have the resources otherwise to provide such course work.

''(c) COMPETITIVE PROCESS.—Funds provided under this subpart shall be distributed to local educational agencies through a competitive process that results in an equitable distribution by geographic area within the State.

''(d) LIMITATIONS ON USE OF FUNDS.—

''(1) COURSE WORK PROVIDED THROUGH EMERGING TECHNOLOGIES.—Activities under subsection (b)(4) may include development of curriculum 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 hardware.

''(2) STATE USE OF FUNDS.—

''(A) IN GENERAL.—A State educational agency receiving a grant under this subpart may not use more than 10 percent of the grant funds for—

''(i) dissemination of 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.

''(a) RESERVATION OF FUNDS.—From the amount made available to carry out this subpart for any fiscal year, the Secretary shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

''(b) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall allot the total amount made available to carry out this subpart for any fiscal year and not reserved under subsection (a) to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of their relative populations of individuals aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

''(2) MINIMUM GRANT AMOUNT.—No State receiving an allotment under paragraph (1) may receive less than ½ of 1 percent of the total amount allotted under such paragraph.

''(c) REALLOTMENT.—If any State does not apply for an allotment under this section for any fiscal year, the Secretary shall reallot such amount to the remaining States in accordance with this section.

''SEC. 11424. STATE APPLICATION.

''(a) 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.

''(b) CONTENTS.—Each application under this section shall include assurances that—

''(1) funds received under this subpart will be used to support gifted and talented students in public schools and public charter schools, including students from all economic, ethnic, and racial backgrounds, students of limited English proficiency, students with disabilities, and highly gifted students;

''(2) the funds not retained by the State educational agency shall be used for the purpose of making, in accordance with this subpart and on a competitive basis, grants to local educational agencies;

''(3) 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;

''(4) 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

''(5) the State educational agency shall develop and implement program assessment models to ensure program accountability and to evaluate educational effectiveness.

''(c) APPROVAL.—To the extent funds are made available for this subpart, the Secretary shall approve an application of a State if such application meets the requirements of this section.

''SEC. 11425. DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES.

''(a) GRANT COMPETITION.—A State educational agency shall use not less than 88 percent of the funds made available to the State educational agency under this subpart to award grants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) to support programs, classes, and other services designed to meet the needs of gifted and talented students.

''(b) SIZE OF GRANT.—A State educational agency shall award a grant under subsection (a) for any fiscal year in an amount sufficient to meet the needs of the students to be served under the grant.

''SEC. 11426. LOCAL APPLICATIONS.

''(a) APPLICATION.—To be eligible to receive a grant under this subpart, a local educational agency (including a consortium of local educational agencies) shall submit an application to the State educational agency.

''(b) 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 personnel in the education of gifted and talented students; and

''(3) an assurance that funds received under this subpart will 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 and for each subsequent year thereafter, the State educational agency shall submit an annual report to the Secretary 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(b).

''Subpart 3—General Provisions

''SEC. 11431. CONSTRUCTION.

''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 CHILDREN AND TEACHERS.

''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.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'gifted and talented' when used with respect to a person or program—

''(i) has 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, has the meaning given such term by definition of the State educational agency or local educational agency involved.

''(B) 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 3.

''(2) 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 $170,000,000 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.

''(a) FUNDS 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 raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

''(b) USES OF FUNDS.—Funds under this section may be used for—

''(1) 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;

''(2) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

''(3) activities to promote and evaluate coordinated student support services;

''(4) activities to promote comprehensive health education;

''(5) activities to promote environmental education;

''(6) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

''(7) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

''(8) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

''(9) programs designed to promote gender equity in education by evaluating and eliminating

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 linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student 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 planning 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 to reform a school 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 COMPETITIONS.

''(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 television;

''(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and 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 instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited English proficient, and individuals with disabilities, through a Star Schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

''(1) develop, construct, acquire, maintain, and operate telecommunications audio and visual facilities and equipment;

''(2) develop and acquire 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 and 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;

''(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) $10,000,000 in any 1 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 which are eligible to receive assistance under part A of title I.

''(e) 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.

''(f) AUTHORITY TO ACCEPT FUNDS FROM OTHER AGENCIES.—The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

''(g) 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.

''(h) 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 visual 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.—For the purpose of this subpart, the term 'eligible entity' may include—

''(A) a public agency or corporation established for the purpose of developing 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 eligible under section 1121(c)(1)(A);

''(ii) a State educational agency;

''(iii) adult and family education programs;

''(iv) an institution of higher education or a State higher 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;

''(vi)(I) 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

''(II) a public broadcasting entity with such experience; or

''(vii) a public or private elementary school or 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 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 educational 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) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training 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 instruction and training and provide assurances 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 by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

''(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;

''(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this subpart;

''(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

''(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

''(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I;

''(10) provide assurances that the applicant will use the funds provided under this subpart to supplement and not supplant funds otherwise available for the purposes of this subpart;

''(11) describe how funds received under this subpart will be coordinated with funds received for educational technology in the classroom;

''(12) describe the activities or services for which assistance is sought, such as—

''(A) providing facilities, equipment, training services, and technical assistance;

''(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

''(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

''(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

''(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

''(F) incorporating community resources such as libraries and museums into instructional programs;

''(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

''(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

''(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

''(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

''(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

''(14) provide an assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I;

''(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this subpart; and

''(16) include such additional assurances as the Secretary may reasonably require.

''(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;

''(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 school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, 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 multistate 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 and donating 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, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

''(b) METHOD OF FUNDING.—The Secretary may fund the activities described in subsection (a) directly or through grants, contracts, and cooperative agreements.

''(c) USES OF FUNDS.—

''(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) may 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.

''(3) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—

''(A) applications for grants under this subpart; and

''(B) activities assisted under this subpart.

"SEC. 11558. DEFINITIONS.

''In this subpart:

''(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 and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, 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 in the application submitted pursuant to section 11556 that such partnership shall—

''(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this subpart for the previous 5-year grant period; and

''(B) use all grant funds received under this subpart for the second 3-year grant period to provide expanded services by—

''(i) increasing the number of students, schools, or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

''(ii) providing new courses of instruction; and

''(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

''(2) SPECIAL RULE.—Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this subpart in the previous fiscal year.

''(b) FEDERAL ACTIVITIES.—The Secretary may assist grant recipients under section 11554 in acquiring satellite time, where appropriate, as economically as possible.

"SEC. 11560. OTHER ASSISTANCE.

''(a) SPECIAL STATEWIDE NETWORK.—

''(1) IN GENERAL.—The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

''(A) provides 2-way full motion interactive video and audio communications;

''(B) links together public colleges and universities and secondary schools throughout the State; and

''(C) meets any other requirements determined appropriate by the Secretary.

''(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

''(b) SPECIAL LOCAL NETWORK.—

''(1) IN GENERAL.—The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

''(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

''(A) include 2-way full motion interactive video, audio, and text communications;

''(B) link together elementary schools and secondary schools, colleges, and universities;

''(C) provide parent participation and family programs;

''(D) include a staff development program; and

''(E) have a significant contribution and participation from business and industry.

''(3) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

''(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

''(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to develop and operate 1 or more programs which provide online access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion, and the acquisition of specified competency by the end of the 12th grade.

''(2) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

''(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice, and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

''(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

''(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

''(D) assure that the applicant has the technological and substantive experience to carry out the program; and

''(E) contain such additional assurances as the Secretary may reasonably require.

"Subpart 3—Arts in Education

"SEC. 11571. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

''(2) the arts are important to excellent education and to effective school reform;

''(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

''(4) such transformation is best realized in the context of comprehensive, systemic education reform;

''(5) a growing body of research indicates that arts education provides significant cognitive benefits and can bolster academic achievement for all students;

''(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

''(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

''(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

''(9) arts education should be an integral part of the elementary school and secondary school curriculum.

''(b) PURPOSES.—The purposes of this section are to—

''(1) support systemic education reform by strengthening arts education as an integral part of the elementary school and secondary school curriculum;

''(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

''(3) support the national effort to enable all students to demonstrate competence in the arts.

''(c) ELIGIBLE RECIPIENTS.—In order to carry out the purposes of this section, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

''(1) State educational agencies;

''(2) local educational agencies;

''(3) institutions of higher education;

''(4) museums and other cultural institutions; and

''(5) other public and private agencies, institutions, and organizations.

''(d) AUTHORIZED ACTIVITIES.—Funds under this section may be used for—

''(1) research on arts education;

''(2) the development of, and dissemination of information about, model arts education programs;

''(3) the development of model arts education assessments based on high standards;

''(4) the development and implementation of curriculum frameworks for arts education;

''(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

''(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, VSA Arts, and the National Gallery of Art;

''(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

''(8) supporting model projects and programs by VSA Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

''(9) supporting model projects and programs to integrate arts education into the regular elementary school and secondary school curriculum; and

''(10) other activities that further the purposes of this section.

''(e) COORDINATION.—

''(1) IN GENERAL.—A recipient of funds under this section shall, to the extent possible, coordinate projects assisted under this section with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

''(2) SPECIAL RULE.—In carrying out this section, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, VSA Arts, and the National Gallery of Art.

''(f) SPECIAL RULE.—If the amount made available to the Secretary to carry out this subpart for any fiscal year is $15,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

"Subpart 4—School Counseling

"SEC. 11601. ELEMENTARY SCHOOL AND SECONDARY SCHOOL COUNSELING DEMONSTRATION.

''(a) COUNSELING DEMONSTRATION.—

''(1) IN GENERAL.—The Secretary may award grants under this section to local educational agencies to enable the local educational agencies to establish or expand elementary school and secondary school counseling programs.

''(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

''(A) demonstrate the greatest need for new or additional counseling services among the children in the schools served by the applicant;

''(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

''(C) show the greatest potential for replication and dissemination.

''(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

''(4) DURATION.—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 approaches to be used to 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 specializing in 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, if applicable, would be served through the program;

''(H) assure that the funds made available under this subpart for any fiscal year will be used to supplement and, 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 no case supplant such funds from non-Federal sources; and

''(I) 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 to carry out this section, the Secretary shall award grants to local education 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;

''(C) increase the range, availability, quantity, and quality of counseling services in the schools of the local educational agency;

''(D) expand 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, decisionmaking, or academic and career planning, or to improve social functioning;

''(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

''(G) include inservice 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; and

''(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 evaluating the programs assisted pursuant to each grant under this subpart at the end of each grant period.

''(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)(i) 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.

"SEC. 11602. SPECIAL RULE.

''For any fiscal year in which the amount made available to carry out this subpart is at least $60,000,000, then at least $60,000,000 shall be made available in such fiscal year to establish or expand elementary school counseling programs.

"Subpart 5—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;

''(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 $500,000.

''(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) curriculum 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) how 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 not members of the original partnership in designing and establishing character education 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 subparagraph (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) 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 5 percent of the funds made available under this section to carry out this paragraph.

''(B) USES.—Funds made available under subparagraph (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.

''(3) FACTORS.—Factors which may be considered in evaluating the success of programs funded under this section may include—

''(A) discipline issues;

''(B) student performance;

''(C) participation in extracurricular activities;

''(D) parental and community involvement;

''(E) faculty and administration involvement;

''(F) student and staff morale; and

''(G) overall improvements in school climate for all students, including students with physical and mental disabilities.

''(d) ELEMENTS OF CHARACTER.—Each eligible entity desiring funding under this section shall develop character education programs that may incorporate elements of character such as—

''(1) caring;

''(2) civic virtue and citizenship;

''(3) justice and fairness;

''(4) respect;

''(5) responsibility;

''(6) trustworthiness; and

''(7) any other elements deemed appropriate by the members of the eligible entity.

''(e) USE OF FUNDS BY STATE EDUCATIONAL AGENCY RECIPIENTS.—Of the total funds received in any fiscal year under this section by an eligible entity that is a State educational agency—

''(1) not more than 10 percent of such funds may be used for administrative purposes; and

''(2) the remainder of such funds may be used for—

''(A) collaborative initiatives with and between local educational agencies and schools;

''(B) the preparation or purchase of materials, and teacher training;

''(C) grants to local educational agencies, schools, or institutions of higher education; and

''(D) technical assistance and evaluation.

''(f) SELECTION OF GRANTEES.—

''(1) CRITERIA.—The Secretary shall select, through peer review, eligible entities to receive grants under this section on the basis of the quality of the applications submitted under subsection (b), taking into consideration such factors as—

''(A) the quality of the activities proposed to be conducted;

''(B) the extent to which the program fosters character in students and the potential for improved student performance;

''(C) the extent and ongoing nature of parental, student, and community involvement;

''(D) the quality of the plan for measuring and assessing success; and

''(E) the likelihood that the goals of the program will be realistically achieved.

''(2) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

''(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

''(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, disadvantaged students, and students with disabilities.

''(g) PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.—Grantees under this section shall provide, to the extent feasible and appropriate, for the participation of students and teachers in private elementary and secondary schools in programs and activities under this section.

"Subpart 6—Women's Educational Equity Act

"SEC. 11701. SHORT TITLE; FINDINGS.

''(a) SHORT TITLE.—This subpart may be cited as the 'Women's Educational Equity Act of 2001'.

''(b) FINDINGS.—Congress finds that—

''(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

''(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

''(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

''(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

''(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

''(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

''(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

''(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

''(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

''(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

''(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

"SEC. 11702. STATEMENT OF PURPOSES.

''It is the purpose of this subpart—

''(1) to promote gender equity in education in the United States;

''(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

''(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited English proficiency, disability, or age.

"SEC. 11703. PROGRAMS AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to promote, coordinate, and evaluate gender equity policies, programs, activities, and initiatives in all Federal education programs and offices;

''(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

''(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

''(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

''(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

''(6) to perform any other activities consistent with achieving the purposes of this subpart.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed 4 years, to—

''(A) provide grants to develop model equity programs; and

''(B) provide funds for the implementation of equity programs in schools throughout the Nation.

''(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this subpart, the Secretary is authorized to provide support and technical assistance—

''(A) to implement effective gender-equity policies and programs at all educational levels, including—

''(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

''(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

''(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

''(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

''(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex, and on race, ethnic origin, limited English proficiency, disability, socioeconomic status, or age;

''(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

''(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

''(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

''(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

''(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

''(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act;

''(xii) programs to improve representation of women in educational administration at all levels; and

''(xiii) planning, development, and initial implementation of—

''(I) comprehensive institutionwide or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

''(II) comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education, including community colleges; and

''(III) innovative approaches to school-community partnerships for educational equity;

''(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

''(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

''(ii) the development of high-quality and challenging assessment instruments that are nondiscriminatory;

''(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

''(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

''(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

''(vi) updating high-quality educational materials previously developed through awards made under this subpart;

''(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

''(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act; and

''(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

''SEC. 11704. APPLICATIONS.

''An application under this subpart shall—

''(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this subpart, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

''(2) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

''(3) for applications for assistance under section 11703(b)(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses, or other recipients of Federal educational funding which may include State literacy resource centers;

''(4) for applications for assistance under section 11703(b)(1), demonstrate how parental involvement in the project will be encouraged; and

''(5) for applications for assistance under section 11703(b)(1), describe plans for continuation of the activities assisted under this subpart with local support following completion of the grant period and termination of Federal support under this subpart.

''SEC. 11705. CRITERIA AND PRIORITIES.

''(a) CRITERIA AND PRIORITIES.—

''(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards 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 part.

''(2) CRITERIA.—The criteria described in subsection (a) may include the extent to which the activities assisted under this part—

''(A) 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.

''(b) PRIORITIES.—In approving applications under this subpart, the Secretary may give special consideration to applications—

''(1) submitted by applicants that have not received assistance under this subpart or this subpart's predecessor authorities;

''(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

''(3) for projects that will—

''(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

''(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

''(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated;

''(D) address issues of national significance that can be duplicated; and

''(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

''(c) SPECIAL RULE.—To the extent feasible, the Secretary shall ensure that grants awarded under this subpart for each fiscal year address—

''(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

''(2) all regions of the United States; and

''(3) urban, rural, and suburban educational institutions.

''(d) COORDINATION.—Research activities supported under this subpart—

''(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

''(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

''(e) LIMITATION.—Nothing in this subpart shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this subpart.

''SEC. 11706. REPORT.

''The Secretary, not later than January 1, 2007, 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.

''(a) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate and disseminate materials and programs developed under this subpart

and shall report to Congress regarding such evaluation materials and programs not later than January 1, 2006.

''(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the activities assisted under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

''SEC. 11708. AMOUNT.

''From amounts made available to carry out this subpart for a fiscal year, not less than ⅔ of such amount shall be used to carry out the activities described in section 11703(b)(1).

''Subpart 7—Physical Education for Progress

''SEC. 11751. SHORT TITLE.

''This subpart may be cited as the 'Physical Education for Progress Act'.

''SEC. 11752. PURPOSE.

''The purpose of this subpart is to award grants and contracts to initiate, expand and improve physical education programs for all kindergarten through 12th grade students.

''SEC. 11753. FINDINGS.

''Congress makes the following findings:

''(1) Physical education is essential to the development of growing children.

''(2) Physical education helps improve the overall health of children by improving their cardiovascular endurance, muscular strength and power, and flexibility, and by enhancing weight regulation, bone development, posture, skillful moving, active lifestyle habits, and constructive use of leisure time.

''(3) Physical education helps improve the self esteem, interpersonal relationships, responsible behavior, and independence of children.

''(4) Children who participate in high quality daily physical education programs tend to be more healthy and physically fit.

''(5) The percentage of young people who are overweight has more than doubled in the 30 years preceding 1999.

''(6) Low levels of activity contribute to the high prevalence of obesity among children in the United States.

''(7) Obesity related diseases cost the United States economy more than $100,000,000,000 every year.

''(8) Inactivity and poor diet cause at least 300,000 deaths a year in the United States.

''(9) Physically fit adults have significantly reduced risk factors for heart attacks and stroke.

''(10) Children are not as active as they should be and fewer than one in four children get 20 minutes of vigorous activity every day of the week.

''(11) The Surgeon General's 1996 Report on Physical Activity and Health, and the Centers for Disease Control and Prevention, recommend daily physical education for all students in kindergarten through grade 12.

''(12) Twelve years after Congress passed House Concurrent Resolution 97, 100th Congress, agreed to December 11, 1987, encouraging State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12, little progress has been made.

''(13) Every student in our Nation's schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. It is the unique role of quality physical education programs to develop the health-related fitness, physical competence, and cognitive understanding about physical activity for all students so that the students can adopt healthy and physically active lifestyles.

''SEC. 11754. PROGRAM AUTHORIZED.

''The Secretary is authorized to award grants to, and enter into contracts with, local educational agencies and community based organizations such as Boys and Girls Clubs, Boy Scouts and Girl Scouts, and YMCA and YWCA, to pay the Federal share of the costs of initiating, expanding, and improving physical education programs, including after school programs for kindergarten through grade 12 students by—

''(1) providing equipment and support to enable students to actively participate in physical education activities; and

''(2) providing funds for staff and teacher training and education.

''SEC. 11755. APPLICATIONS; PROGRAM ELEMENTS.

''(a) APPLICATIONS.—Each local educational agency and community based organization desiring a grant or contract under this subpart shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in order to make progress toward meeting State standards for physical education.

''(b) PROGRAM ELEMENTS.—A physical education program described in any application submitted under subsection (a) may provide—

''(1) fitness education and assessment to help children understand, improve, or maintain their physical well-being;

''(2) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every child;

''(3) development of cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle;

''(4) opportunities to develop positive social and cooperative skills through physical activity participation;

''(5) instruction in healthy eating habits and good nutrition; and

''(6) teachers of physical education the opportunity for professional development to stay abreast of the latest research, issues, and trends in the field of physical education.

''(c) SPECIAL RULE.—For the purpose of this subpart, extracurricular activities such as team sports and Reserve Officers' Training Corps (ROTC) program activities shall not be considered as part of the curriculum of a physical education program assisted under this subpart.

''SEC. 11756. PROPORTIONALITY.

''The Secretary shall ensure that grants awarded and contracts entered into under this subpart shall be equitably distributed between local educational agencies and community based organizations serving urban and rural areas, and between local educational agencies and community based organizations serving large and small numbers of students.

''SEC. 11757. PRIVATE SCHOOL STUDENTS AND HOME-SCHOOLED STUDENTS.

''An application for funds under this subpart may provide for the participation, in the activities funded under this subpart, of—

''(1) home-schooled children, and their parents and teachers; or

''(2) children enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers.

''SEC. 11758. REPORT REQUIRED FOR CONTINUED FUNDING.

''As a condition to continue to receive grant or contract funding after the first year of a multiyear grant or contract under this subpart, the administrator of the grant or contract for the local educational agency or community based organization shall submit to the Secretary an annual report that describes the activities conducted during the preceding year and demonstrates that progress has been made toward meeting State standards for physical education.

''SEC. 11759. REPORT TO CONGRESS.

''The Secretary shall submit a report to Congress not later than June 1, 2003, that describes the programs assisted under this subpart, documents the success of such programs in improving physical fitness, and makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this subpart.

''SEC. 11760. ADMINISTRATIVE COSTS.

''Not more than 5 percent of the grant or contract funds made available to a local educational agency or community based organization under this subpart for any fiscal year may be used for administrative costs.

''SEC. 11761. FEDERAL SHARE; SUPPLEMENT NOT SUPPLANT.

''(a) FEDERAL SHARE.—The Federal share under this subpart may 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; and

''(2) 75 percent of such cost for the second and each subsequent such year.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds made 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 8—Smaller Learning Communities

''SEC. 11801. 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, in such manner, and accompanied by such information 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 themes 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 better enable 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 agency 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 or ages of students who will participate in the smaller learning community or communities; and

''(13) the method of placing students in the smaller learning community or communities, such 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—

''(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;

''(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;

''(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

''(4) 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. 11901. 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 XVII—JOHN H. CHAFEE ENVIRONMENTAL EDUCATION ACT

SEC. 1701. SHORT TITLE.

(a) THIS TITLE.—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 note) 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. 5503) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''objective and scientifically sound'' after ''support'';

(B) by striking paragraph (6);

(C) by redesignating paragraphs (7) through (13) 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 supported by 1 full-time equivalent employee in each regional office of the Agency.

''(d) ACTIVITIES.—The Administrator may carry out the activities described in subsection (b) directly or through awards of 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).

''(k) GUIDANCE REVIEW.—Before the Administrator issues any guidance to grant applicants, the guidance shall be reviewed and approved by the Science Advisory Board of the Agency established by section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365).''.

SEC. 1704. JOHN H. CHAFEE MEMORIAL FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Section 7 of the John H. Chafee Environmental Education Act (20 U.S.C. 5506) is amended to read as follows:

''SEC. 7. JOHN H. CHAFEE MEMORIAL FELLOWSHIP PROGRAM.

''(a) ESTABLISHMENT.—There is established the John H. Chafee Memorial Fellowship Program for the award and administration of 5 annual 1-year higher education fellowships in environmental sciences and public policy, to be known as 'John H. Chafee Fellowships'.

''(b) PURPOSE.—The purpose of the John H. Chafee Memorial Fellowship Program is to stimulate innovative graduate level study and the development of expertise in complex, relevant, and important environmental issues and effective approaches to addressing those issues through organized programs of guided independent study and environmental 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 health protection 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 9(a) shall administer the John H. Chafee Fellowship Panel.

''(2) MEMBERSHIP.—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;

''(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;

''(B) receive applications for John H. Chafee Fellowships; and

''(C) annually review applications and select recipients of John H. Chafee Fellowships.

''(g) DISTRIBUTION OF FUNDS.—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) $125,000 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.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) is amended—

(1) in paragraph (12), by striking ''and'' at the end;

(2) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(14) 'Panel' means the John H. Chafee Fellowship Panel established under section 7(f);

''(15) 'sponsoring institution' means an institution of higher education;''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 7 and inserting the following:

''Sec. 7. 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) PRESIDENT'S 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 Chairman of the Council on Environmental Quality, on behalf of the President, may establish a program for the granting and administration of awards to recognize—

''(A) teachers in elementary schools and secondary schools who demonstrate excellence in advancing objective and scientifically sound environmental education through innovative approaches; and

''(B) the local educational agencies of the recognized teachers.

''(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 each teacher selected to receive 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 to fund 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 Chairman of the Council on Environmental Quality may administer this awards program through a cooperative agreement with the National Environmental Learning Foundation.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 1704(b)) is amended by adding at the end the following:

''(16) 'elementary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

''(17) 'secondary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 8 and inserting the following:

''Sec. 8. National environmental education awards.''.

SEC. 1706. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

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 Secretary.

''(B) REPRESENTATIVES OF SECTORS.—To the maximum extent practicable, the Administrator shall appoint to the Advisory Council at least 2 members to represent each 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'';

(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.''; and

(3) in subsection (d), by striking ''(d)(1)'' and all that follows through ''(2) The'' and inserting the following:

''(d) MEETINGS AND REPORTS.—

''(1) IN GENERAL.—The Advisory Council shall—

''(A) hold biennial meetings on timely issues regarding environmental education; and

''(B) issue a report describing the proceedings of each meeting and recommendations resulting from the meeting.

''(2) REVIEW AND COMMENT ON DRAFT REPORTS.—The''.

SEC. 1707. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.

(a) CHANGE IN NAME.—

(1) IN GENERAL.—Section 10 of the John H. Chafee Environmental Education Act (20 U.S.C. 5509) is amended—

(A) by striking the section heading and inserting the following:

''SEC. 10. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.'';

and

(B) in the first sentence of subsection (a)(1)(A), by striking ''National Environmental Education and Training Foundation'' and inserting ''National Environmental Learning Foundation''.

(2) CONFORMING AMENDMENTS.—

(A) The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 10 and inserting the following:

''Sec. 10. National Environmental Learning Foundation.''.

(B) Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 1704(b)) is amended—

(i) by striking paragraph (12) and inserting the following:

''(12) 'Foundation' means the National Environmental Learning Foundation established by section 10;''; and

(ii) in paragraph (13), by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation''.

(b) NUMBER OF DIRECTORS.—Section 10(b)(1)(A) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(b)(1)(A)) is amended in the first sentence by striking ''13'' and inserting ''19''.

(c) ACKNOWLEDGMENT OF DONORS.—Section 10(d) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(d)) is amended by striking paragraph (3) and inserting the following:

''(3) ACKNOWLEDGMENT OF DONORS.—The Foundation may acknowledge receipt of donations by means of a listing of the names of donors in materials distributed by the Foundation, except that any such acknowledgment—

''(A) shall not appear in educational material presented to students; and

''(B) shall not identify a donor by means of a logo, letterhead, or other corporate commercial symbol, slogan, or product.''.

(d) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 10(e) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(e)) is amended in the first sentence by striking ''for a period of up to 4 years from the date of enactment of this Act,''.

SEC. 1708. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended—

(1) by redesignating section 11 (20 U.S.C. 5510) as section 13; and

(2) by inserting after section 10 the following:

''SEC. 11. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a grant program to be known as the 'Theodore Roosevelt Environmental Stewardship Grant Program' (referred to in this section 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 75 percent.

''(b) PURPOSE.—The purpose of the Program is to build awareness of, encourage commitment to, and promote participation in environmental stewardship—

''(1) among students at institutions of higher education; and

''(2) in the relationship between—

''(A) such students and campuses; and

''(B) the communities in which the students and campuses are located.

''(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)(2)(A).

''(d) ADMINISTRATION.—

''(1) IN GENERAL.—The Office of Environmental Education established under section 4 shall administer the Program.

''(2) 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.

''(3) CRITERIA.—In establishing criteria for a competitive selection process for recipients of grants under the Program, the Office of Environmental Education shall include, 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.

''(e) CONDITIONS ON USE OF FUNDS.—With respect to the funds made available to carry out this section under section 13(a)(1)—

''(1) not fewer than 6 grants each year shall be awarded using those funds; and

''(2) no grant made 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 a cooperative 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. 1709. INFORMATION STANDARDS.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended by inserting after section 11 (as added by section 1708(a)(2)) the following:

''SEC. 12. INFORMATION STANDARDS.

''In disseminating information under this Act, the Office of Environmental Education shall comply with the guidelines issued by the Administrator under section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note; 114 Stat. 2763A–153).''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 11 and inserting the following:

''Sec. 11. Theodore Roosevelt Environmental Stewardship Grant Program.

''Sec. 12. Information standards.

''Sec. 13. Authorization of appropriations.''.

SEC. 1710. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John H. Chafee Environmental Education Act (20 U.S.C. 5510) (as redesignated by section 1708(a)(1)) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by striking the section heading and subsections (a) and (b) and inserting the following:

''SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to the Environmental Protection Agency to carry out this Act $13,000,000 for each of fiscal years 2002 through 2007, of which—

''(1) $3,000,000 for each fiscal year shall be used to carry out section 11; and

''(2) $10,000,000 for each fiscal year shall be allocated in accordance with subsection (b).

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the amounts made available under subsection (a)(2) for each fiscal year—

''(A) not more than 25 percent may be used for the activities of the Office of Environmental Education established under section 4;

''(B) not more than 25 percent may be used for the operation of the environmental education and training program under section 5;

''(C) not less than 38 percent shall be used for environmental education grants under section 6 and for the John H. Chafee Memorial Fellowship Program under section 7; and

''(D) 10 percent shall be used for the activities of the Foundation under section 10; and

''(E) not less than 2 percent shall be available to support Teachers' Awards under section 8(b).

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under paragraph (1)(A) for each fiscal year, not more than 10 percent may be used for administrative expenses of the Office of Environmental Education.

''(c) EXPENSE REPORT.—As soon as practicable after the end of each fiscal year, the Administrator shall submit to Congress a report describing in detail the activities for which funds appropriated for the fiscal year were expended.''; and

(3) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation''; and

(B) in paragraph (2), by striking ''section 10(d) of this Act'' and inserting ''section 10(e)''.

AUTHORIZING USE OF THE CAPITOL ROTUNDA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 54, submitted earlier today by Senators BINGAMAN, DASCHLE, and LOTT.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (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.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 54) was agreed to.

(The text of the concurrent resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

ORDERS FOR MONDAY, JUNE 25, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 2 p.m., Monday, June 25. I further ask consent that on Monday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients' Bill of Rights.

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

PROGRAM

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I announce that the Senate will convene at 2 p.m. and resume consideration of the Patients' Bill of Rights. The leader has already announced there will be no rollcall votes on Monday, with the next rollcall votes beginning on Tuesday at 11:30 a.m. The bill will be concluded, the majority leader has indicated, prior to the Fourth of July recess. If it is not completed, the Fourth of July recess, of course, is in jeopardy.

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:

DEPARTMENT OF STATE

PETER R. CHAVEAS, 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 CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CYNTHIA HOLCOMB HALL, RETIRED.

CAROLYN B. KUHL, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE JAMES R. BROWNING, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

DAVID L ABBOTT, 0000
BRUCE D ADAMS, 0000
JAMES W ADAMS, 0000
ELIZABETH R AGATHER, 0000
TIMOTHY C AGAZIO, 0000
ALFONSO J AHUJA, 0000
MICHAEL C AID, 0000
ELTON D AKINS, 0000
GARY D ALEXANDER, 0000
JEFFERY R ALEXANDER, 0000
ROBERT E ALI, 0000
JOHN W ALLEN, 0000
KIRK T ALLEN, 0000
MICHAEL C ALLEN, 0000
MICHAEL J ALLEN, 0000
REGINALD E ALLEN, 0000
PAUL JAMES AMBROSE, 0000
FRANZ J AMANN, 0000
CURTIS A ANDERSON JR., 0000
DAVID E ANDERSON, 0000
JOSEPH A ANDERSON, 0000
RANDAL S ANDERSON, 0000
RICHARD J ANDERSON, 0000
ZELMA A ANDERSON, 0000
SR D ANDREWS, 0000
PATRICK M ANTONIETTI, 0000
ARTHUR J ARAGON JR., 0000
DENISE A ARCHULETA, 0000
DAVID C ARE, 0000
MICHAEL A ARMSTEAD, 0000
MARK R ARN, 0000
HENRY A ARNOLD III, 0000
JOHN K ARNOLD IV, 0000
JOHN C ASHBAUGH, 0000
REGGIE L AUSTIN, 0000
CALVIN D BAILEY, 0000
CHRISTOPHER J BAILEY, 0000
*CASEY E BAIN, 0000
MICHAEL K BAISDEN, 0000
DOUGLAS L BAKER, 0000
GREGORY P BAKER, 0000
JOHN W BAKER, 0000
TERRY L BALDWIN, 0000
WILLIAM E BALES, 0000
SHAWN D BALL, 0000
CHRISTOPHER S BALLARD, 0000
JEFFERY A BALLMER, 0000
WILLIAM P BANKER, 0000
JAMES B BANKSTON, 0000
ROBERT BANNON, 0000
JUNIO O BARBER, 0000
ROBERT E BARINOWSKI III, 0000
MARVIN BARKER III, 0000
MARK S BARNES, 0000
PHILIP S BASILE, 0000
DAVID E BASSETT, 0000
JEROLD D BASTIAN, 0000
MICHAEL A BAUMANN, 0000
EARNEST A BAZEMORE, 0000
BRYAN S BEAN, 0000
MARK R BEAN, 0000
MICHAEL D BEAN, 0000
JAMES E BEASLEY, 0000
JONATHAN D BEASLEY, 0000
CRAIG I BELL, 0000
SHELBY E BELL, 0000
GREGORY S BENDA, 0000
LEITH A BENEDICT, 0000
JOSEPH A BENNETT, 0000
LISA C BENNETT, 0000
JOHN G BENNIS, 0000
GUS BENTON II, 0000
RANDALL M BENTZ, 0000
BRUCE V BERARDINI, 0000
JACOB L BERLIN, 0000
TIMOTHY B BERNSTEIN, 0000
JOHN E BESSLER, 0000
RICHARD A BEZOLD, 0000
CLINTON R BIGGER, 0000
MARTIN G BINDER, 0000
CARL D BIRD III, 0000
GARRY P BISHOP, 0000
ROBERT G BLACK JR., 0000
BOBBY F BLACKWELL, 0000
MARLON D BLOCKER, 0000
KENNETH L BOEHME, 0000
JOHN E BOKOR, 0000
MICHAEL D BOLLUYT, 0000
STEVEN S BONK, 0000
BRADLEY W BOOTH, 0000
*JOHN J BOREK, 0000
KEVIN J BOSTICK, 0000
RICHARD F BOWYER, 0000
ALLAN S BOYCE, 0000
CRIS J BOYD, 0000
ALLEN D BOZARTH, 0000
WILLIE L BRADLEY JR., 0000
CARL J BRADSHAW, 0000
FRANCIS A BRANCH, 0000
JAMES M BRANDON, 0000
PORTIA BRANDONMCCRAW, 0000
STEVEN BRATINA, 0000
DARCY A BREWER, 0000
DANIEL T BRICK, 0000
DAVID D BRIGGS, 0000
RICHARD H BRISBON, 0000
ALFRED L BROOKS, 0000
SCOTT A BROSCH, 0000
JAMES M BROSKY, 0000
DAVID J BROST, 0000
CHARLES R BROWN, 0000
*CHRISTOPHER E BROWN, 0000
FREDRICK BROWN, 0000
PAUL D BROWN, 0000
RONALD E BROWN, 0000
TIMOTHY J BROWN, 0000
TODD A BROWNE, 0000
STEVEN P BROWNING, 0000
NORMAN E BRUBAKER, 0000
VINCENT D BRYANT, 0000
TIMOTHY K BUENNEMEYER, 0000
ANDREW F BURCH, 0000
RENE G BURGESS, 0000
STEPHEN T BURNS, 0000
PAUL S BURTON, 0000
HANS E BUSH, 0000
MATTHEW C BUTLER, 0000
GREGORY K BUTTS, 0000
BRADLEY R BYLER, 0000
RICHARD M CABREY, 0000
SAMUEL M CACCAMO, 0000
GRETCHEN A CADWALLADER, 0000
ANITA M CAIN, 0000
PAUL L CAL, 0000
ELIZABETH G CALDWELL, 0000
DEAN C CALONDER, 0000
LUIS A CAMACHO, 0000
ROBERT K CAMPBELL, 0000
SCOTT A CAMPBELL, 0000
LORRAINE L CANTOLINA, 0000
SUE CANTU, 0000
MAUREEN C CANTWELL, 0000
CHRISTOPHER R CARLSON, 0000
DAVID H CARLTON, 0000
DWAYNE CARMAN JR., 0000
MARK D CARMODY, 0000
STEVEN E CARRIGAN, 0000
CRAIG H CARSON, 0000
ALFRED D CARTER, 0000
FLORENTINO L CARTER, 0000
GLORIA J CARTER, 0000
ROSEMARY M CARTER, 0000
MARK A CARUSO, 0000
JERRY CASHION, 0000
JAMES P CASSELLA, 0000
THOMAS P CASSIDY III, 0000
NICHOLAS L CASTRINOS, 0000
MICHAEL P CAVALIER, 0000
MICHAEL A CEROLI, 0000
JOSEPH L CHACON, 0000
KENNETH A CHANCE, 0000
CHRISTOPHER CHANDLER, 0000
MICHAEL R CHANDLER, 0000
DAVID A CHAPMAN, 0000
JAMES J CHAPMAN, 0000
ALLEN M CHAPPELL III, 0000
STEVEN M CHARBONNEAU, 0000
WELTON CHASE JR., 0000
TRACY E CHAVIS, 0000
ROBERT G CHEATHAM JR., 0000
JAMES S CHILDRESS, 0000
PAUL CHLEBO JR., 0000
*ANTONIO S CHOW, 0000
CONRAD D CHRISTMAN, 0000
STEVEN M CHRISTY, 0000

WILLIAM M CHURCHWELL, 0000
THOMAS M CIOPPA, 0000
ROBERT A CLAFLIN, 0000
WILLIAM P CLAPPIN, 0000
FREDERICK S CLARKE, 0000
MATTHEW T CLARKE, 0000
DANIEL C CLEMONS, 0000
MARK B COATS, 0000
MARCUS A COCHRAN, 0000
WILLIAM J COJOCAR, 0000
MARYLEE COLE, 0000
RICHARD D COLLEY, 0000
BRUCE D COLLIER, 0000
THOMAS W COLLINS, 0000
DARRYL J COLVIN, 0000
RAY A COMBS II, 0000
GEORGE E CONE JR., 0000
DARYL L CONKLIN, 0000
JOSEPH R CONNELL, 0000
MARK W CONNELLY, 0000
MARCO C CONNERS, 0000
LYNN S CONNORS, 0000
ANDRES CONTRERAS, 0000
JAMES L COOK, 0000
JULIA C COOK, 0000
STEPHEN B COOK, 0000
STEPHEN J COONEN, 0000
MICHAEL COOPER, 0000
GEORGE R COPELAND, 0000
JEFFREY C CORBETT, 0000
ROBERT E CORNELIUS JR., 0000
BLAISE CORNELLDECHERT JR., 0000
LEONARD A COSBY, 0000
EDWIN T COTTON JR., 0000
PETER L COUGHLIN, 0000
*STEVE J COUNTOURIOTIS, 0000
JAMES A COX, 0000
JAMES E CRAFT, 0000
MICHAEL P CRALL, 0000
LISA K CRAMER, 0000
PAUL D CRAMER, 0000
ANTHONY K CRAWFORD, 0000
BOBBY G CRAWFORD, 0000
LINDA L CRAWFORD, 0000
WAYNE M CRAWFORD II, 0000
LUIS B CRESPO, 0000
MARK S CREVISTON III, 0000
JANE E CRICHTON, 0000
DAVID W CRITICS, 0000
MAUREEN W CROSS, 0000
KEVIN D CROUCH, 0000
DAVID A CROWE, 0000
ROBERT M CUMBIE, 0000
ANGELA M CUMMINGS, 0000
ELLIOUTT M CUNNINGHAM, 0000
JEFFRY E CUNNINGHAM, 0000
KEIR K CURRY, 0000
MICHAEL J CURRY, 0000
DEBORAH M CUSIMANO, 0000
TRENT R CUTHBERT, 0000
ERIK O DAIGA, 0000
LYNNE A DALEY, 0000
*AUSTIN L DALTON JR., 0000
EDWARD M DALY, 0000
MARK C DARDEN, 0000
KEITH R DARROW, 0000
CHRISTOPHER E DASH, 0000
ANNE R DAUGHERTY, 0000
*DAVID L DAVENPORT IV, 0000
JACKIE W DAVID, 0000
JEFFREY L DAVIDSON, 0000
MARK C DAVIDSON, 0000
SUSAN A DAVIDSON, 0000
JEFFREY S DAVIES, 0000
DAWNE M DAVIS, 0000
*KEVIN I DAVIS, 0000
ROBERT T DAVIS, 0000
STEVAN A DAVIS, 0000
MATTHEW Q DAWSON, 0000
MAURICE DAWSON, 0000
JEFFREY E DAY, 0000
ANTHONY E DEANE, 0000
STEVEN W DECATO, 0000
ANGELO L DECECCO JR., 0000
CRAIG A DEDECKER, 0000
DENISE A DELAWTER, 0000
JOHN E DELLAGIUSTINA, 0000
ARTURO DELOSSANTOS JR., 0000
KATHERINE R DERRICK, 0000
BRIAN M DETOY, 0000
BRIAN J DIAZ, 0000
JAMES F DICKENS, 0000
SHANE DIETRICH, 0000
JEFFREY W DILL, 0000
KENNETH J DILLER, 0000
PAUL ALFRED DINKEL, 0000
TODD L DODSON, 0000
ROBERT C DOERER, 0000
KATHLEEN M DORAN, 0000
JOHN P DORMAN, 0000
BRIAN L DOSA, 0000
DAVID A DOUGHERTY, 0000
WILLIAM D DOUGLASS, 0000
STEVEN G DRAKE, 0000
BRIAN M DRINKWINE, 0000
EDWIN M DROSE JR., 0000
JOHN W DRUCE, 0000
ROBERT W DUGGLEBY, 0000
JOHN R DUKE, 0000
JAMES J DULLAGHAN, 0000
JOHN R DUNDAS, 0000
JEFFERY G DUNN, 0000
WILLIAM L DUPONT, 0000
DAVID P DVORAK, 0000
KENNETH C DYER, 0000
PATRICK J EBERHART, 0000
EDWARD E ECHOLS, 0000
JEFFREY R ECKSTEIN, 0000
RODNEY D EDGE, 0000
PETER B EDMONDS, 0000
JOSEPH K EDWARDS, 0000
*AMY L EHMANN, 0000
EDWARD H EIDSON, 0000
SCOTT A EISENHAUER, 0000
RACHEL M ELKINS, 0000
JOHN A ELLIS, 0000
JEFFREY D ELLISON, 0000
BRIAN E ENG, 0000
CRAIG A ENGEL, 0000
ANTHONY J ENGLISH, 0000
DANIEL MITCHELL ENOCH, 0000
OSWALD ENRIQUEZ, 0000
ROBERT H EPPERSON, 0000
PAUL J ERNST SR., 0000
RAUL E ESCRIBANO, 0000
CHARLES D EUBANKS JR., 0000
BOYCE H EVANS, 0000
JOHN R EVANS, 0000
THOMAS P EVANS, 0000
MATTHEW J FADDIS, 0000
JOHN S FANT, 0000
ANTHONY FEAGIN, 0000
PHILIP T FEIR, 0000
ALAN W FEISTNER, 0000
JEFFREY L FELDMAN, 0000
LUIS A FELICIANO, 0000
KEVIN M FELIX, 0000
SCOTT M FELLOWS, 0000
MICHAEL D FENNELL, 0000
GREGORY P FENTON, 0000
BRUCE H FERRI JR., 0000
MARK A FERRIS, 0000
MARLENE S FEY, 0000
GREGORY M FIELDS, 0000
DENNIS D FIEMEYER, 0000
ANTHONY J FIORE, 0000
EDWARD J FISH, 0000
*CASEY CHARLES FLAGG, 0000
STEVEN D FLEMING, 0000
SCOTT N FLETCHER, 0000
DOUGLAS L FLOHR, 0000
BRETT T FLORO, 0000
JACK D FLOWERS, 0000
JAY G FLOWERS, 0000
KARL S FLYNN, 0000
MICHAEL J FLYNN, 0000
PETER J FORMICA JR., 0000
JAMES S FOSTER, 0000
AUGUSTUS W FOUNTAIN III, 0000
ANDREW H FOWLER, 0000
PATRICK M FOWLER, 0000
CYNTHIA L FOX, 0000
DANIEL T FOX, 0000
KIRK D FRADY, 0000
PATRICK F FRAKES, 0000
ANDREW J FRANK, 0000
CHRISTOPHER C FRANKS, 0000
MICHAEL J FRANKS, 0000
ALFONSO FRANQUI, 0000
MICHAEL E FRANTZ, 0000
JEFFREY D FREELAND, 0000
SHERYL P FRENCH, 0000
DONALD G FRYC, 0000
DAVID E FUNK, 0000
ANTHONY C FUNKHOUSER, 0000
CHARLES E FURTADO, 0000
JEFFREY A GABBERT, 0000
DONALD L GABEL II, 0000
CHARLES H GABRIELSON, 0000
PAUL A GALLO, 0000
ERIN J GALLOGLYSTAVER, 0000
THOMAS P GALVIN, 0000
AUBREY L GARNER II, 0000
ALBERT GARRICK II, 0000
JAMES P GARRISON, 0000
JOHN F GARRITY, 0000
PATRICK B GASTON, 0000
MARK S GAVULA, 0000
FREDERICK J GELLERT, 0000
JAMES D GEORGE JR., 0000
MARK T GERGES, 0000
JAMES R GIERLACH, 0000
JAMES SALVADOR GIGRICH, 0000
MARY A GILGALLON, 0000
JOHN W GILLETTE, 0000
JAY N GILLIS, 0000
MARY K GILMARTIN, 0000
ROBERT F GILMARTIN, 0000
KARL GINTER, 0000
COREY Z GIPSON, 0000
JEFFREY T GIRARD, 0000
GERALD L GLADNEY, 0000
DAVID P GLASER, 0000
TIMOTHY R GOBIN, 0000
JEFFREY J GOBLE, 0000
MICHELE L GODDETTE, 0000
MICHAEL GODFREY, 0000
MICHAEL K GODFREY, 0000
TIMOTHY C GOFF, 0000
ROOSEVELT GOLIDAY, 0000
SALVADOR E GOMEZ, 0000
ROBERT F GOODRICH JR., 0000
JON P GOODSMITH, 0000
MICHAEL L GOODWIN, 0000
LARRY GORDON, 0000
DARYL GORE, 0000
GLEN A GRADY, 0000
GLENN T GRAHAM JR., 0000
REGINA M GRANT, 0000
RUSSELL A GRANT, 0000
JOSEPH A GREBE, 0000
HARRY E GREEN IV, 0000
JAN W GREER, 0000
*EDWARD DAVID GREKOSKI, 0000
JONATHAN N GRIFFIN, 0000
DANIEL C GRIFFITH, 0000
GARRETT C GRIMM, 0000
DAVID P GROGAN JR., 0000
DAVID L GRUENWALD, 0000
NICKOLAS P GUARINO, 0000
JUSTIN C GUBLER, 0000
PAUL E GUELLE, 0000
NICHOLAS C GUERRA, 0000
GINNI L GUITON, 0000
GALE E GUNDERSDORFF, 0000
KENT R GUTHRIE, 0000
GORDON B HACKETT III, 0000
BRIAN ROBERT HAEBIG III, 0000
MARSHALL A HAGEN, 0000
WILLIAM T HAGER, 0000
MICHAEL K HAIDER, 0000
JOHN F HALEY, 0000
BRETT R HALL, 0000
DELBERT M HALL, 0000
FRANK R HALL, 0000
MICHAEL J HALL, 0000
OSCAR J HALL IV, 0000
RANDY R HALL, 0000
CHARLOTTE HALLENGREN, 0000
SEAN B HALLINAN, 0000
LARRY M HAMILTON, 0000
REGINA J HAMILTON, 0000
RHONDA E HAMILTON, 0000
JOSEPH T HAND, 0000
EARNEST E HANSLEY, 0000
AUGUST G HARDER, 0000
RICHARD A HARFST, 0000
JOHN G HARGITT, 0000
EMMETT C HARLESTON, 0000
MARK C HARMON, 0000
DENNIS J HARRINGTON, 0000
KEITH R HARRINGTON, 0000
BARRY HARRIS, 0000
BOBBY HARRIS, 0000
MARC D HARRIS, 0000
STEVEN D HARRIS, 0000
WENDELL C HARRIS, 0000
RICHARD C HARTMAN, 0000
CHRISTOPHER J HARVEY, 0000
ROLAND C HAUN, 0000
MICHAEL D HAUSER, 0000
JEROME K HAWKINS, 0000
*CHARLES H HAYDEN JR., 0000
CORNELIUS L HAYES, 0000
JEFFERY W HAYMAN, 0000
RONALD N HAYNES, 0000
ERIC F HAZAS, 0000
FREDERICK A HEAGGANS SR., 0000
PATRICK J HEALY, 0000
CHRISTIAN E HEIBEL, 0000
KARL J HEINEMAN, 0000
GERALD D HENDERSON JR., 0000
JAMES H HENDERSON, 0000
JAMES L HENDERSON, 0000
DAVID N HENDRICKSON, 0000
DOUGLAS F HENRY, 0000
HENRY J HENRY, 0000
TODD W HENSHAW, 0000
DEXTER Q HENSON, 0000
LINDA R HERBERT, 0000
ANDREW L HERGENROTHER, 0000
ALEJANDRO D HERNANDEZ, 0000
DOUGLAS A HERSH, 0000
HENRY M HESTER JR., 0000
RICHARD S HICKENBOTTOM, 0000
CHRISTOPHER M HICKEY, 0000
HAROLD J HICKS JR., 0000
MATTHEW T HIGGINBOTHAM, 0000
BRETHARD S HILL, 0000
DAVID C HILL, 0000
LUKE L HILL, 0000
MYRNA L HILTON, 0000
RUSSELL A HINDS, 0000
JOHN C HINKLEY, 0000
DANIEL R HIRSCH, 0000
GARY R HISLE JR., 0000
JEFFREY K HOADLEY, 0000
BRIAN K HOBSON, 0000
CARL A HOFFMAN JR., 0000
CHRISTOPHER K HOFFMAN, 0000
DAVID E HOLLIDAY, 0000
THOMAS S HOLLIS, 0000
VINCENT M HOLLOWAY, 0000
MICHELLE J HOLTERY, 0000
SIMON L HOLZMAN, 0000
KATHY L HOOD, 0000
WILLIAM L HOOKER, 0000
JOHN M HORN, 0000
BRENT J HORROCKS, 0000
JOHN R HORTON, 0000
JOSEPH R HOSACK, 0000
STEPHEN T HOUSTON, 0000
LONNIE P HOWARD, 0000
MICHAEL LAMAR HOWARD, 0000
RHONDA P HOWARD, 0000
STEVEN R HOWARD, 0000
DONALD ERNEST HOWELL, 0000
HENRY K HOWERTON, 0000
ANITA L HOYE, 0000
FRANCIS J HUBER, 0000
MICHAEL R HUBER, 0000
MELVIN D HULL, 0000
MARK A HURON, 0000
KENNETH J HURST, 0000
KEVIN A HYDE, 0000
DAVID B IRVIN, 0000
DARREN L IRVINE, 0000
STEPHEN K IWICKI, 0000
MCCLANEY S J, 0000
ANNA L JACKSON, 0000
JOSEPH D JACKY, 0000

SCOTT A JACOBSEN, 0000
GRANT A JACOBY, 0000
LEON G JAMES II, 0000
WILLIAM T JAMES JR., 0000
BERNARD J JANSEN, 0000
THOMAS J JARDINE, 0000
ANDREW V JASAITIS, 0000
WILLIAM JEFFERS V, 0000
WESLEY J JENNINGS, 0000
MICHEL J JIMERSON, 0000
VALERIE T JIRCITANOTORRES, 0000
STEVEN ANTHONY JOHNS, 0000
TERRANCE J JOHNS, 0000
DANIEL W JOHNSON, 0000
JAMES H JOHNSON III, 0000
*JOHN E JOHNSON, 0000
JOHN PETER JOHNSON, 0000
KIRK V JOHNSON, 0000
LOREN A JOHNSON, 0000
MARK A JOHNSON, 0000
MARK D JOHNSON, 0000
MATTHEW A JOHNSON, 0000
NORMAN E JOHNSON, 0000
PRESTON E JOHNSON II, 0000
REGINALD P JOHNSON, 0000
TIMOTHY M JOHNSON, 0000
JEFFERY K JOLES, 0000
DAVID A JONES, 0000
LAWRENCE D JONES, 0000
LYDIA E JONES, 0000
PETER L JONES, 0000
SHANNON E JONES, 0000
THOMAS M JOYCE, 0000
RICHARD A JUERGENS JR., 0000
GREGORY S JULIAN, 0000
DANIEL N JUSTIS JR., 0000
DANIEL L KARBLER, 0000
STEVEN V KARL, 0000
RICHARD J KARLSSON, 0000
DEAN T KATSIYIANNIS, 0000
JOHN A KEARNEY, 0000
KARL L KEARNEY, 0000
JAMES M KEARNS, 0000
MARK A KEENE, 0000
DOUGLAS M KEEPPER, 0000
JEFFREY P KELLEY, 0000
OLEN L KELLEY, 0000
ROBERT E KELLEY, 0000
JOHN S KEM, 0000
MICHAEL J KERIS, 0000
WILLIAM P KEYES, 0000
*ERIC B KEYS, 0000
WARREN F KIMBALL, 0000
GRADY S KING, 0000
RICKY T KING, 0000
ROBERT K KING II, 0000
TOMI D KING, 0000
JOSEPH F KINNALLY, 0000
RICARDO M KINSEY, 0000
SCOTT J KIRKLIGHTER, 0000
ROBERT E KIRKPATRICK, 0000
MICHAEL L KIRKTON, 0000
DAVID PAUL KITE, 0000
RONALD J KLUBER, 0000
ROBERT J KMIECIK, 0000
THOMAS T KOESTERS, 0000
TERRI S KOHLER, 0000
ROBERT F KOLTERMAN, 0000
TIMOTHY L KOPRA, 0000
RICHARD J KOUCHERAVY, 0000
ANDREW J KOWAL JR., 0000
PAUL C KRAJESKI, 0000
DENNIS A KRINGS, 0000
KENNETH J KROUPA, 0000
ROBERT W KUBLER, 0000
MICHAEL C KUNZ, 0000
MICHAEL J KWINN JR., 0000
RAYMOND P LACEY, 0000
MICHAEL A LACHANCE, 0000
RUSSELL P LACHANCE, 0000
PAUL W LADUE, 0000
*TIMOTHY L LAKE, 0000
MORGAN M LAMB, 0000
ANDY L LAMBERT, 0000
BEATRICE L LAMBERT, 0000
MICHAEL J LANDERS, 0000
KEITH A LANDRY, 0000
RANDALL C LANE, 0000
JAMES C LARSEN, 0000
JOHN A LATULIP, 0000
MARK H LAUBER, 0000
PAUL J LAUGHLIN II, 0000
ANTHONY A LAYTON, 0000
FRANCIS D LEACH, 0000
ALVIN B LEE, 0000
DAVID A LEE, 0000
GILBERT R LEE III, 0000
JAMES D LEE, 0000
KEVIN C LEE, 0000
NATALIE G LEE, 0000
STEPHEN H LEE JR., 0000
SUNG H LEE, 0000
FLEMING M LEGG, 0000
JOHN K LEIGHOW, 0000
LOUIS C LEONE, 0000
EUGENE J LESINSKI, 0000
RONALD F LEWIS, 0000
ROBERT A LEY, 0000
ROGER J LINDER, 0000
MICHAEL A LINDSAY, 0000
MICHAEL E LINICK, 0000
ANTHONY L LISANO, 0000
MELINDA C LITMAN, 0000
JOHN R LIZAR, 0000
LARRY LOCK, 0000
JON M LOCKEY, 0000
JOHN W LOFFERT JR., 0000
LAURA C LOFTUS, 0000
ARLEN W LOGAN, 0000
JOHN E LONG III, 0000
RONNIE W LONG JR., 0000
EDWARD S LOOMIS, 0000
ORLANDO LOPEZ, 0000
ANDREW M LOTWIN, 0000
MATTIE M LOVE, 0000
MARCO LOVELL, 0000
CARL W LOWE, 0000
ANDREW J LUCAS III, 0000
GARY E LUCK JR., 0000
ANDREW B LUCKE, 0000
SANDRA E LUFF, 0000
*CHRIS E LUKASIEWICZ, 0000
MICHAEL D LUNDY, 0000
ROBERT H LUNN, 0000
STEVEN M LYNCH, 0000
PATRICK M LYONS, 0000
MARK J MABRY, 0000
THOMAS D MACDONALD, 0000
WILLIAM H MACDONALD, 0000
CHRISTOPHER J MACFARLAND, 0000
LORENZO MACK SR, 0000
RODERICK Q MACK, 0000
SCOT D MACKENZIE, 0000
PAUL M MACNAMARA, 0000
ALAN D MAHAN, 0000
GENE A MAISANO, 0000
HOWARD L MALONE, 0000
TIMOTHY W MANGO, 0000
ARA S MANJIKIAN, 0000
SAMUEL P MANSBERGER, 0000
MARTIN J MANSIR, 0000
JOHN S MANTA, 0000
DAVID T MANTIPLY, 0000
ELMER D MARCOS, 0000
ROGER S MARIN, 0000
GREGORY V MARINICH, 0000
KENT S MARQUARDT, 0000
JEFFREY A MARQUEZ, 0000
VALRICA J MARSHALLQUINONES, 0000
JEREMY M MARTIN, 0000
JOSEPH M MARTIN, 0000
MICKY J MARTIN, 0000
TED F MARTIN, 0000
KIM J MARTINI, 0000
DIANE L MARTINO, 0000
JOHN C MASON, 0000
PAUL E MASON, 0000
CHARLES A MATEYKA, 0000
STEVEN D MATHIAS, 0000
GREGORY C MAXTON, 0000
PHILLIP N MAXWELL, 0000
STEPHEN J MAYHEW, 0000
WILLIAM A MAYO, 0000
JAMES J MCARDLE, 0000
JOHN M MCCARTHY, 0000
JOHN N MCCARTHY, 0000
CYNTHIA S MCCLELLAND, 0000
KYLE M MCCLELLAND, 0000
*JOHN T MCCOMB JR., 0000
JAMES L MCCORVEY, 0000
JOSEPH M MCCOY, 0000
WILLIAM K MCCURRY, 0000
LARRY D MCDANIEL, 0000
DEBORAH J MCDONALD, 0000
KENNETH W MCDONALD, 0000
JEFFREY K MCGEE, 0000
JAMES L MCGINNIS JR., 0000
GEORGE R MCGUIRE III, 0000
MICHAEL S MCGURK, 0000
THOMAS P MCKENNA, 0000
TERRENCE J MCKENRICK, 0000
BRIAN J MCKIERNAN, 0000
ERIC M MCKSYMICK, 0000
TRACY E MCLEAN, 0000
MICHAEL J MCMAHON, 0000
GREGORY J MCMILLAN, 0000
ROBERT A MCNAMARA, 0000
CHRISTOPHER P MCPADDEN, 0000
ANTHONY J MEGOFNA, 0000
DAVID P MEISTER, 0000
JEFFREY R MEISTER, 0000
*PAUL F MELCHER II, 0000
*WILLIAM MELENDEZ II, 0000
JOAN B MERCIER, 0000
STEVEN M MERKEL, 0000
JENNIFER E MERKLE, 0000
LAYNE B MERRITT, 0000
ERIC W METZGER, 0000
ROBERT S MIKALOFF, 0000
STEVEN R MILES, 0000
DOUGLAS J MILLER, 0000
FRANK A MILLER, 0000
GERALD H MILLER, 0000
KEVIN J MILLER, 0000
KURT F MILLER, 0000
LEE D MILLER, 0000
MICHAEL A MILLER, 0000
THOMAS LEE MILLER, 0000
STEVEN P MILLIRON, 0000
GARY L MILNER, 0000
MARK A MINES, 0000
JIMMIE MISTER JR., 0000
CHRISTOPHER R MITCHELL, 0000
LAURENCE M MIXON, 0000
TOMMY R MIZE, 0000
JEFFREY J MOCKENSTURM, 0000
KEITH D MOFFETT, 0000
JAMES H MOLLER, 0000
ALEXANDER E MONTEITH, 0000
BRUCE M MOODY, 0000
WILLIAM K MOONEY JR., 0000
JOSEPH P MOORE, 0000
ROGER A MOORE, 0000
AVIEON C MORGAN, 0000
HURMAYONNE W MORGAN, 0000
VINCE A MORIKAWA, 0000
DONALD W MORRIS, 0000
EDWARD J MORRIS JR., 0000
JOHN B MORRISON JR., 0000
SHAWN M MORRISSEY, 0000
ANDREW J MORROW, 0000
MICHAEL G MORROW, 0000
DWAYNE A MORTON, 0000
LUCIOUS B MORTON, 0000
CYNTHIA A MOSLEY, 0000
DAVID J MOTZ, 0000
ANDREW J MUELLER, 0000
DOUGLAS S MULBURY, 0000
WILLIAM S MULLIS, 0000
DANIEL M MUNOZ, 0000
PATRICK M MUNSTER, 0000
MICHAEL J MURPHY, 0000
JOHN E MURRAY, 0000
MARK A MURRAY, 0000
PAUL J MURRAY, 0000
DONALD H MYERS, 0000
JAMES M MYERS, 0000
PAUL N NASI, 0000
TIMOTHY J NEELY, 0000
GREGORY T NELL, 0000
ANDREW B NELSON, 0000
JOHN W NEWCOMER, 0000
PETER A NEWELL, 0000
ANTHONY J NIETO, 0000
CHARLES E NILES V, 0000
EARL D NOBLE, 0000
FREDERICK J NOHMER, 0000
JOSEPH M NOLAN, 0000
DOUGLAS H NOMURA, 0000
KURT E NORBY, 0000
JOHN C NORDRUM JR., 0000
LEE J NORMAN SR, 0000
JAMES W NORRIS, 0000
JAMES E NORWOOD, 0000
ROXANNE M NOSAL, 0000
SEAN P OATMEYER, 0000
DANIEL M OBRIEN, 0000
JOHN A OBRIEN, 0000
THOMAS P OCKENFELS, 0000
MARY A OCONNOR, 0000
RICHARD B OCONNOR II, 0000
WARREN N ODONELL, 0000
VERNON E ODONNELL, 0000
JAMES P OGRADY JR., 0000
THOMAS E OHARA JR., 0000
CHRISTOPHER M OLIVER, 0000
LEE B OLIVER, 0000
THOMAS M OLSON, 0000
*DAVID L ONEAL, 0000
MARK JOSEPH ONEIL, 0000
SHANE T OPENSHAW, 0000
DOUGLAS R ORR, 0000
CARLOS ORTIZ, 0000
JOSEPH E OSBORNE, 0000
PAUL A OSTROWSKI, 0000
PATRICK M OSULLIVAN, 0000
STACY A OVERBY, 0000
JOHN T OWENS III, 0000
JOSEPH M OZOROSKI, 0000
CHARLES J PACKARD, 0000
GREGORY A PALKA, 0000
THOMAS H PALMATIER, 0000
PAUL G PALMER, 0000
BRUCE D PARKER, 0000
RICHARD B PARKER, 0000
ROBERT M PASTORELLI, 0000
RALPH A PATELLI, 0000
JEFFERY C PATTEN, 0000
DOUGLAS J PAVEK, 0000
ANTHONY S PELCZYNSKI, 0000
JEFF PERKINS, 0000
JEFFORY A PERKINS, 0000
BRETT T PERRY, 0000
KEVIN B PETERSON, 0000
ROBERT D PETERSON, 0000
GREGORY D PETRIK, 0000
MICHAEL C PETTIGREW, 0000
JERALD L PHIFER, 0000
WILLIAM H PHILBRICK, 0000
CARL E PHILLIPS, 0000
DAVID D PHILLIPS, 0000
WALTER E PIATT, 0000
JOSEPH J PIEK, 0000
JEFFREY A PIKE, 0000
SAMUEL T PIPER III, 0000
DOUGLAS J PITCAIRN, 0000
WILLIAM G PITTS, 0000
LOUIS J PLEVELL, 0000
MATTHEW D POE, 0000
TRACY A POHL, 0000
ROBERT B POLK, 0000
MICHAEL B POND, 0000
BASIL K POOLE JR., 0000
CLIFTON H POOLE, 0000
LAWRENCE W POOLE, 0000
MARK A PORTER, 0000
*RANDALL E POTTER, 0000
ANTHONY W POTTS, 0000
THOMAS C POWELL, 0000
MICHAEL S POWERS, 0000
BRIAN J PRELER, 0000
JACK K PRITCHARD, 0000
ROBERT G PROTOSEVICH, 0000
LAVON R PURNELL, 0000
JIM N PUTMAN JR., 0000
WILLIAM J QUIGLEY, 0000
ROBERT C QUINN, 0000
LEOPOLDO A QUINTAS JR., 0000
ROGER A RABIEGO, 0000
MARK A RADO, 0000
ANITA M RAINES, 0000

THOMAS A RAMSAY, 0000
GARY J RAMSDELL, 0000
JAIMY S RAND, 0000
JAMES W RANDAZZO, 0000
LEE F RANSDELL, 0000
MICHAEL J RAPAVI, 0000
JEROME T RAYBURN JR., 0000
JOSEPH B READ, 0000
ALLEN D REECE, 0000
KARL D REED, 0000
MARK L REEDER, 0000
CATHERINE A REESE, 0000
JAMES P REEVES, 0000
*TERENCE W REEVES, 0000
HEIDI A REID, 0000
RICHARD J REID JR., 0000
THEODORE C REIHMER, 0000
GREGORY D REILLY, 0000
RICHARD D REIMERS II, 0000
JONATHAN T REINEBOLD, 0000
EDWARD J REINFURT, 0000
RANDALL L REINISCH, 0000
*DARYL S REY, 0000
FRANK E REYNOLDS III, 0000
ROBERT F REYNOLDS, 0000
WILLIAM B RHODES, 0000
CEDRIC T RICE, 0000
JAMES E RICE, 0000
PATRICK M RICE, 0000
ROBERT J RICE, 0000
ALBERT E RICHARD, 0000
TIMOTHY J RICHARDS, 0000
CHRISTINE M RICHARDSON, 0000
MARK D RICHARDSON, 0000
RANSON J RICKS, 0000
RICKEY J RIDDLEY, 0000
SUSAN A RIFE, 0000
KENNETH J RIGGINS, 0000
CRAIG A RILEY, 0000
THOMAS PATRICK RILEY, 0000
ROBERT H RISBERG, 0000
JENELLE B ROBERTS, 0000
JOEL E ROBERTS, 0000
DOUGLAS C ROBERTSON, 0000
EDWARD J ROBILLARD, 0000
LARNCE L ROBINSON, 0000
WILLARD L ROBINSON, 0000
CHRISTOPHER E RODNEY, 0000
THOMAS H ROE, 0000
DARSIE D ROGERS JR., 0000
DOUGLAS H ROMBOUGH, 0000
RALPH F ROOME, 0000
FRANK ROSE, 0000
RANDOLPH E ROSIN, 0000
BYRON L ROSS, 0000
STEPHEN M ROSS, 0000
DOMENICO ROSSI, 0000
DANIEL C ROSSO, 0000
ROBERT M ROTH, 0000
RANDOLPH R ROTTE JR., 0000
KIMM A ROWE, 0000
WILFRED G ROWLETT JR., 0000
CHARLES M RUCKER, 0000
GABRIEL RUIZ, 0000
ALISA M RUNYAN, 0000
EDWARD J RUSH JR., 0000
ROBERT E RUSHING, 0000
TAMMY S RUSHING, 0000
JACQUELYN L RUSSELL, 0000
STEVEN D RUSSELL, 0000
TIMOTHY J RUSSELL, 0000
JOHN T RYAN, 0000
JEFFERSON M RYSCAVAGE, 0000
LARRY L SADD JR., 0000
ROBERT W SADOWSKI, 0000
MICHAEL J SAGE, 0000
JAMES R SAGEN, 0000
KREWASKY A SALTER, 0000
CHARLES B SALVO, 0000
ROCKY G SAMEK, 0000
BOBBIE H SANDERS, 0000
FREDRICK D SANDERS, 0000
GARY S SANDERS, 0000
MICHAEL J SANDERS, 0000
*ROBERT E SANDERS JR., 0000
ROGER N SANGVIC, 0000
MARK C SANSING, 0000
MICKEY A SANZOTTA, 0000
SHERRY H SARGENT, 0000
NATHAN M SASSAMAN, 0000
BARTLETT F SAUTER, 0000
DAVID P SAVOLD, 0000
WALTER S SAVOY JR., 0000
KENT D SAVRE, 0000
CHRISTOPHER D SCALIA, 0000
WILLIAM J SCHAFER, 0000
THEODORE E SCHILLER, 0000
MICHAEL V SCHLEICHER, 0000
BERND F SCHLIEMANN, 0000
MICHAEL L SCHODOWSKI, 0000
JOHN F SCHRADER, 0000
KATHRYN J SCHRAMM, 0000
CHARLES R SCHRANKEL, 0000
STEVEN ERICH SCHULER, 0000
HENRY J SCHUMACHER II, 0000
ROBERT W SCHUMITZ, 0000
JEWEL A SCOTT, 0000
RANDY D SCOTT, 0000
DAVID M SEITZ, 0000
CHARLES E SEXTON, 0000
WAYNE M SHANKS, 0000
CAROLYN R SHARPE, 0000
MARY E SHAW, 0000
WILLIAM H SHAW III, 0000
LINDA K SHEIMO, 0000
DAVID T SHEPHERD, 0000
STEVEN K SHERIDAN, 0000
CHANDLER C SHERRELL, 0000
JAMES J SHIVERS, 0000
BARTHOLOMEW U SHREVE, 0000
ROBERT L SHUMAR, 0000
JOHN DAVID SICILIA, 0000
LAWRENCE S SILAS, 0000
GERALD R SIMMONS, 0000
ROGER R SIMMONS, 0000
DENNIS H SIMON, 0000
JAMES E SIMPSON, 0000
ROBERT L SIMPSON, 0000
WILLIAM P SIMRIL JR., 0000
MICHAEL J SINATRA, 0000
JEFFREY A SINCLAIR, 0000
*KERRY T SKELTON, 0000
ANTHONY R SKINNER, 0000
KELLY E SLAVEN, 0000
TIMOTHY S SLEMP, 0000
RALPH M SLIWICKI, 0000
VALERIE E SLOAN, 0000
CHRISTOPHER F SMITH, 0000
DEREK S SMITH, 0000
DOUGLAS P SMITH, 0000
GINA SMITH, 0000
JANICE E SMITH, 0000
JOHN T SMITH, 0000
PEYTON E SMITH, 0000
PHILIP G SMITH, 0000
STANLEY O SMITH, 0000
TRACY O SMITH, 0000
WILLIAM M SOLMS, 0000
EDWARD R SOTELO, 0000
SCOTT A SPELLMON, 0000
CHRISTOPHER L SPILLMAN, 0000
NICHOLAS J SPIRIDIGLIOZZI, 0000
WILLARD S SQUIRE III, 0000
LUCIE M STAGG, 0000
MICHAEL J STAVER, 0000
ROBERT P STAVNES, 0000
THOMAS C STEFFENS, 0000
GEORGE E STEIGER, 0000
SHELLY L STELLWAGEN, 0000
EDWARD C STEPANCHUK, 0000
JERRY D STEVENSON, 0000
MICHAEL R STEVES, 0000
DEANNA M STEWART, 0000
JAMES E STEWART, 0000
MONTIETH H STEWART, 0000
NAPOLEON W STEWART, 0000
MICHAEL F STOLLENWERK, 0000
JANICE MARIE STONE, 0000
MICHAEL P STONEHAM, 0000
CURT E STOVER, 0000
TERRY L STREETON, 0000
JACK E STURGEON, 0000
KEITH A STURGESS, 0000
FRANK W STYLES JR., 0000
TIMOTHY S SUGHRUE, 0000
ROBERT P SULLIVAN, 0000
BRIAN P SUNDIN, 0000
THOMAS B SUPPLEE, 0000
JOHN R SURDU, 0000
JEFFREY L SUTTON, 0000
MICHAEL J SWANSON, 0000
WILLIAM D SWOPE, 0000
ZSOLT I SZENTKIRALYI, 0000
ARPAD J SZOBOSZLAY, 0000
IVAR S TAIT, 0000
HUGH B TALLEY JR., 0000
DOUGLAS A TAMILIO, 0000
KENNETH R TARCZA, 0000
JEROME M TARUTANI, 0000
BRENDA F TATE, 0000
KIP P TAYLOR, 0000
KURT L TAYLOR, 0000
ROGER M TAYLOR, 0000
SCOTT R TAYLOR, 0000
MICHAEL J TEAGUE, 0000
RORY K TEGTMEIER, 0000
*NEAL R THIBAULT, 0000
PHILIP R THIELER, 0000
BRYAN K THOMAS, 0000
DANIEL L THOMAS, 0000
JOCHEN ADAM THOMAS, 0000
NELLO A THOMAS III, 0000
CHRISTOPHER R THOMPSON, 0000
LARRY M THOMPSON, 0000
PRESTON THOMPSON, 0000
ROBERT L THOMPSON, 0000
JOHN C THOMSON III, 0000
LEO R THORNE JR., 0000
LEON N THURGOOD, 0000
JOHN K TIEN JR., 0000
PATRICK E TIERNEY, 0000
DAVID E TIGHE, 0000
JOSEPH A TIRONE, 0000
WILLIAM E TOLSON, 0000
KAREN D TOMLIN, 0000
DANIEL W TOMLINSON, 0000
GARY W TONEY, 0000
SHERI L TONNER, 0000
CHARLES M TOROK, 0000
FERNANDO L TORRENT, 0000
DOUGLAS M TOSTRUD, 0000
TOMMY J TRACY, 0000
FRANCIS F TRENTLEY, 0000
ARTHUR N TULAK, 0000
AMY F TURLUCK, 0000
ALISSA D TURNER, 0000
CURTIS W TURNER, 0000
MARK A TURNER, 0000
RANDY L TURNER, 0000
RICHARD J TURNER, 0000
FRANCIS J TWAROG, 0000
STEVEN C ULLOM, 0000
IRELAND S UPCHURCH, 0000
GREGG UPSHAW, 0000
LENNIE R UPSHAW, 0000
CHRISTOPHER S UPSON, 0000
ROBERT S VANBEUGE, 0000
DIANE M VANDERPOT, 0000
ROBERTO L VAZQUEZ, 0000
ALEJANDRO J VEGA IV, 0000
DAVID VELAZQUEZ IV, 0000
BRUCE C VERDE, 0000
FRANCISCO B VILLANUEVA, 0000
JAMES A VIOLA, 0000
BERNARD S VISHNESKI, 0000
LOUIS A VOGLER, 0000
TIMOTHY A VUONO, 0000
SCOTT T WAGGONER, 0000
ERIC C WAGNER, 0000
MARC A WAGNER, 0000
DOUGLAS L WAHLERT, 0000
FLEM B WALKER JR., 0000
GLENN R WALKER JR., 0000
LISA A WALL, 0000
ERIC A WALTERS, 0000
DARRELL A WARD, 0000
DARRYL E WARD, 0000
DAVID L WARD, 0000
JESSE S WARD, 0000
MICHAEL J WARMACK, 0000
MICHAEL V WARREN, 0000
THOMAS F WASHER II, 0000
ANDRE WASHINGTON II, 0000
VERSALLE F WASHINGTON, 0000
JOHN D WASON, 0000
SCOTT T WATERMAN, 0000
CHARLES D WATTS JR., 0000
MICHAEL S WEAVER, 0000
CHARLES B WEBBER, 0000
MICHAEL C WEHR, 0000
WILLIAM R WEIGESHOFF, 0000
HOWARD L WEINSTOCK, 0000
SCOTT C WELIVER, 0000
*CRAIG A WELLS, 0000
PAUL D WELSCH, 0000
JOHN M WENDEL, 0000
ANTHONY N WENGER, 0000
BRIAN C WEPKING, 0000
ERIC J WESLEY, 0000
MICHAEL F WESOLOWSKI, 0000
BRIAN F WEST, 0000
JEFFREY H WESTON, 0000
BRIAN R WHALEN, 0000
ROBERT P WHALEN JR., 0000
DAVID W WHIPPLE, 0000
MARVIN S WHITAKER, 0000
ANDREW P WHITE, 0000
CLIFFORD T WHITE, 0000
DAVID J WHITE, 0000
ROBERT L WHITE JR., 0000
STEVEN C WICAL, 0000
CHRISTOPHER J WICKER, 0000
TRACY L WICKHAM, 0000
KARL B WIEDEMANN, 0000
ROBERT F WIELER JR., 0000
MARK H WIGGINS, 0000
DAVID L WILCOX, 0000
PHILIP G WILKER, 0000
BRIAN L WILLIAMS, 0000
CHARLES A WILLIAMS, 0000
ERIC L WILLIAMS, 0000
GERALD E WILLIAMS, 0000
RICHARD G WILLIAMS, 0000
THEODORE C WILLIAMS IV, 0000
JEFFREY D WILLIAMSON, 0000
MICHAEL D WILLS, 0000
DONALD G WILSEY, 0000
BELFORD S WILSON, 0000
JEFFREY S WILSON, 0000
JOHN S WILSON III, 0000
MARK L WILSON, 0000
THOMAS M WILSON, 0000
JEFFREY S WILTSE, 0000
WILLIAM L WIMBISH JR., 0000
LOUIS B WINGATE, 0000
KARL E WINGENBACH, 0000
CEDRIC T WINS, 0000
NATHALIE M WISNESKI, 0000
DAVID M WITTY, 0000
DOUGLAS J WOLFE, 0000
BRADLEY J WOOD, 0000
TODD R WOOD, 0000
JAMES E WOODARD SR, 0000
JOHN I WOODBERY, 0000
KENNETH C WOODBURN, 0000
ANTHONY O WRIGHT, 0000
CHRISTOPHER D WRIGHT, 0000
GEORGE G WRIGHT, 0000
WILLIAM D WUNDERLE, 0000
PHILLIP B WYLLIE, 0000
DAVID M WYRICK, 0000
OLIVER K WYRTKI, 0000
TIMOTHY R YANTIS, 0000
LAWRENCE Y YAP JR., 0000
MICHAEL J YORK, 0000
KRISTINA A YOUNG, 0000
ROBERT G YOUNG, 0000
KATHRYN M YURKANIN, 0000
STEPHEN D ZACHARCZYK, 0000
WILLIAM J ZAHARIS, 0000
MICHAEL T ZARYCZNY, 0000
*MICHAEL V ZIEBA, 0000
ADAM C ZIEGLER, 0000
NEAL O ZIMMERMAN, 0000
RANDAL J ZIMMERMAN, 0000