

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1835

To provide for the collection and dissemination of statistics designed to show the condition and progress of education in the United States, to promote and improve the cause of education throughout the Nation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day JANUARY 25), 1994

Mr. PELL (for himself and Mr. JEFFORDS) (by request) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To provide for the collection and dissemination of statistics designed to show the condition and progress of education in the United States, to promote and improve the cause of education throughout the Nation, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “National Education  
5        Statistics Act of 1994”.

6        **SEC. 2. FINDINGS; PURPOSE; DEFINITIONS.**

7        (a) FINDINGS.—The Congress finds that—

1           (1) a Department Office of Education was es-  
2           tablished in 1867 “for the purpose of collecting such  
3           statistics and facts as shall show the condition and  
4           progress of education in the several States and Ter-  
5           ritories, and of diffusing such information respecting  
6           the organization and management of schools and  
7           school systems and methods of teaching as shall aid  
8           the people of the United States in the establishment  
9           and maintenance of efficient school systems, and  
10          otherwise promote the cause of education throughout  
11          the country”;

12          (2) today, while the role of the current Depart-  
13          ment of Education is much broader, the National  
14          Center for Education Statistics within the Depart-  
15          ment’s Office of Educational Research and Improve-  
16          ment continues to perform those crucial original  
17          purposes; and

18          (3) looking to the 21st Century, the National  
19          Center for Education Statistics must be able to de-  
20          sign and undertake, effectively and efficiently, statis-  
21          tical activities that will aid in the reform of our  
22          Nation’s educational systems.

23          (b) PURPOSE.—It is the purpose of this Act to ensure  
24          the continuation of an effective mechanism for collecting  
25          and reporting statistics and information showing the con-

1 dition and progress of education in the United States and  
2 other nations in order to promote and accelerate the im-  
3 provement of American education.

4 (c) DEFINITIONS.—For the purpose of this Act, the  
5 term—

6 (1) “Assistant Secretary” means the Assistant  
7 Secretary for Educational Research and Improve-  
8 ment, provided for under section 202(b)(1)(E) of the  
9 Department of Education Organization Act;

10 (2) “Department” means the Department of  
11 Education;

12 (3) “institution of higher education” has the  
13 same meaning given that term in section 1201 of the  
14 Higher Education Act of 1965;

15 (4) “local educational agency” has the same  
16 meaning given that term in section 1471 of the Ele-  
17 mentary and Secondary Education Act of 1965;

18 (5) “Secretary”, unless otherwise specified,  
19 means the Secretary of Education;

20 (6) “State” and “United States”—

21 (A) other than for the purpose of section  
22 11, mean each of the 50 States, the District of  
23 Columbia, and the Commonwealth of Puerto  
24 Rico; and

1 (B) for the purpose of section 11, include  
2 Guam, American Samoa, the Virgin Islands, the  
3 Commonwealth of the Northern Mariana Is-  
4 lands, and the Republic of Palau (until the ef-  
5 fective date of the Compact of Free Association  
6 with the Government of Palau); and

7 (7) “State educational agency” has the same  
8 meaning given that term in section 1471 of the Ele-  
9 mentary and Secondary Education Act of 1965.

10 **SEC. 3. NATIONAL CENTER FOR EDUCATION STATISTICS.**

11 (a) ESTABLISHMENT.—There is established, within  
12 the Office of Educational Research and Improvement es-  
13 tablished under section 209 of the Department of Edu-  
14 cation Organization Act, a National Center for Education  
15 Statistics (hereafter in this Act referred to as the  
16 “Center”).

17 (b) COMMISSIONER AND ASSOCIATE COMMIS-  
18 SIONERS.—

19 (1) COMMISSIONER.—The Center shall be head-  
20 ed by a Commissioner of Education Statistics (here-  
21 after in this Act referred to as the “Commissioner”)  
22 who shall be appointed by the President, by and  
23 with the advice and consent of the Senate, and who  
24 shall—

1 (A) have substantial knowledge of pro-  
2 grams encompassed by under the authority of  
3 the Center;

4 (B) be paid in accordance with section  
5 5315 of title 5, United States Code; and

6 (C) serve for a term of 4 years, with the  
7 terms to expire every fourth June 21, beginning  
8 in 1995.

9 (2) ASSOCIATE COMMISSIONERS.—The Commis-  
10 sioner may appoint such Associate Commissioners as  
11 the Commissioner determines are necessary and ap-  
12 propriate.

13 **SEC. 4. DUTIES OF THE CENTER.**

14 (a) DUTIES.—The Center shall collect, analyze, and  
15 disseminate statistics and other information related to  
16 education in the United States and in other nations, in-  
17 cluding—

18 (1) acquiring, compiling (where appropriate, on  
19 a State-by-State basis), and disseminating full and  
20 complete statistics on the condition and progress of  
21 education in the United States, including data on—

22 (A) State and local education reform;

23 (B) student achievement and other edu-  
24 cational outcomes (including data on special

1 student populations and data on high school  
2 completions, dropouts, and adult literacy);

3 (C) educational access and opportunity, in-  
4 cluding data on financial aid to postsecondary  
5 students;

6 (D) teaching, including data on curricu-  
7 lum, instruction, the conditions of the education  
8 workplace, and the supply of, and demand for,  
9 teachers;

10 (E) the learning environment, including  
11 data on libraries and the incidence of crime, vi-  
12 olence, and substance abuse;

13 (F) the financing and management of edu-  
14 cation, including data on revenues and expendi-  
15 tures; and

16 (G) the social and economic status of chil-  
17 dren;

18 (2) conducting and publishing reports and anal-  
19 yses of the meaning and significance of such statis-  
20 tics;

21 (3) conducting longitudinal studies, as well as  
22 regular and special surveys and data collections, nec-  
23 essary to report on the condition and progress of  
24 education;

1           (4) assisting public and private educational  
2 agencies, organizations, and institutions in improv-  
3 ing and automating their statistical and data collec-  
4 tion activities; and

5           (5) acquiring and disseminating data on edu-  
6 cational activities and student achievement in the  
7 United States compared with those in foreign na-  
8 tions.

9           (b) TRAINING PROGRAM.—The Commissioner may  
10 establish a program to train employees of public and pri-  
11 vate educational agencies, organizations, and institutions  
12 in the use of the Center’s standard statistical procedures  
13 and concepts and may establish a fellows program to tem-  
14 porarily appoint such employees as temporary fellows at  
15 the Center in order to assist the Center in carrying out  
16 its duties.

17 **SEC. 5. PERFORMANCE OF DUTIES.**

18           (a) IN GENERAL.—In carrying out the Commis-  
19 sioner’s duties under this Act, the Commissioner may  
20 enter into grants, contracts, and cooperative agreements.

21           (b) GATHERING INFORMATION.—

22           (1) SAMPLING.—The Commissioner may use  
23 the statistical method known as sampling to carry  
24 out the purpose of this Act.

1           (2) SOURCE OF INFORMATION.—The Commis-  
2 sioner may, as the Commissioner considers appro-  
3 priate, use information collected—

4           (A) from States, local educational agencies,  
5 schools, institutions of higher education, librar-  
6 ies, administrators, teachers, students, the gen-  
7 eral public, and such other individuals, organi-  
8 zations, agencies, and institutions as the Com-  
9 missioner may consider appropriate; and

10          (B) by other offices within the Department  
11 and by other Federal departments, agencies,  
12 and instrumentalities.

13          (3) COLLECTION.—The Commissioner may—

14          (A) enter into interagency agreements for  
15 the collection of statistics;

16          (B) arrange with any agency, organization,  
17 or institution for the collection of statistics; and

18          (C) assign employees of the Center to any  
19 such agency, organization, or institution to as-  
20 sist in such collection.

21          (4) TECHNICAL ASSISTANCE AND COORDINA-  
22 TION.—In order to maximize the effectiveness of  
23 Federal efforts to serve the educational needs of  
24 children and youth, the Commissioner shall—

1 (A) provide technical assistance to Depart-  
2 ment offices that gather data for statistical pur-  
3 poses; and

4 (B) coordinate closely with other Depart-  
5 ment offices in the collection of data.

6 **SEC. 6. REPORTS.**

7 (a) REPORT ON THE CONDITION AND PROGRESS OF  
8 EDUCATION.—The Commissioner shall, not later than  
9 June 1 of each year beginning, submit to the President  
10 and the Congress a statistical report on the condition and  
11 progress of education in the United States.

12 (b) STATISTICAL REPORTS.—The Commissioner  
13 shall issue regular statistical reports to the President and  
14 Congress on such education topics as the Commissioner  
15 determines to be appropriate.

16 (c) SPECIAL REPORTS.—The Commissioner may,  
17 whenever the Commissioner considers it appropriate, issue  
18 special reports on particular education topics.

19 **SEC. 7. ADVISORY COUNCIL ON EDUCATION STATISTICS.**

20 (a) ESTABLISHMENT.—There is established, within  
21 the Center, an Advisory Council on Education Statistics  
22 (hereafter in this Act referred to as the “Council”).

23 (b) MEMBERSHIP.—

24 (1) COMPOSITION.—The Council shall be com-  
25 posed of—

1 (A) 15 voting members who are users of  
2 education data and who are appointed by the  
3 Secretary on the basis of their experience and  
4 eminence within the field of education statistics,  
5 of whom at least—

6 (i) three shall be educators;

7 (ii) three shall be education policy-  
8 makers;

9 (iii) three shall be professional stat-  
10 isticians; and

11 (iv) three shall be education research-  
12 ers;

13 (B) the Director of the Bureau of the Cen-  
14 sus and the Commissioner of the Bureau of  
15 Labor Statistics, as voting, ex officio members;  
16 and

17 (C) the Assistant Secretary and the Com-  
18 missioner, as nonvoting, ex officio members.

19 (2) PRESIDING OFFICER.—The Secretary shall  
20 appoint the presiding officer of the Council from  
21 among the voting members of the Council.

22 (3) TERMS.—Members of the Council appointed  
23 under paragraph (1)(A) shall be appointed for 3-  
24 year terms except that, in the case of initial appoint-  
25 ments, the Secretary shall make appointments for

1 shorter terms to the extent necessary to avoid the  
2 expiration of the terms of more than 5 members in  
3 the same calendar year.

4 (4) MEETINGS.—

5 (A) IN GENERAL.—The Council shall meet  
6 at the call of the presiding officer, except that  
7 the Council shall meet—

8 (i) at least 2 times during each cal-  
9 endar year; and

10 (ii) in addition, whenever 8 voting  
11 members request in writing that the pre-  
12 siding officer call a meeting.

13 (B) QUORUM.—Nine voting members of  
14 the Council shall constitute a quorum.

15 (5) SPECIAL RULE.—The Council shall review  
16 general policies for the operation of the Center and  
17 shall advise the Commissioner on standards to en-  
18 sure that statistics and other information dissemi-  
19 nated by the Center are of high quality and are not  
20 subject to partisan political influence.

21 **SEC. 8. CONFIDENTIALITY.**

22 (a) CONFIDENTIALITY STANDARDS.—

23 (1) IN GENERAL.—The Center shall develop  
24 and enforce standards designed to protect the con-  
25 fidentiality of persons in the collection, reporting,

1 and publication of data under this section. This sec-  
2 tion shall not be construed to protect the confiden-  
3 tiality of information about institutions, organiza-  
4 tions, and agencies that receive grants from, or have  
5 contracts or cooperative agreements with, the Fed-  
6 eral Government.

7 (2) PROHIBITION.—No person may—

8 (A) use any individually identifiable infor-  
9 mation furnished under this Act for any pur-  
10 pose other than a statistical purpose;

11 (B) make any publication whereby the data  
12 furnished by any particular person under this  
13 Act can be identified; or

14 (C) permit anyone other than the individ-  
15 uals authorized by the Commissioner to exam-  
16 ine the individual reports.

17 (b) ADMINISTRATION.—

18 (1) IN GENERAL.—No department, bureau,  
19 agency, officer, or employee of the Federal Govern-  
20 ment, except the Commissioner in carrying out the  
21 purposes of this Act, shall require, for any reason,  
22 copies of reports that have been filed under this Act  
23 with the Center or retained by any individual re-  
24 spondent. Copies of such reports that have been so  
25 filed or retained with the Center or any of its em-

1 ployees, contractors, or agents shall be immune from  
2 legal process, and shall not, without the consent of  
3 the individual concerned, be admitted as evidence or  
4 used for any purpose in any action, suit, or other ju-  
5 dicial or administrative proceeding. This paragraph  
6 shall apply only to individually identifiable informa-  
7 tion (as defined in paragraph (4)(A)).

8 (2) EMPLOYEE OR STAFF VIOLATIONS.—Who-  
9 ever, being or having been an employee or staff  
10 member of the Department, having taken or sub-  
11 scribed the oath of office, or having sworn to observe  
12 the limitations imposed by subsection (a)(2), know-  
13 ingly publishes or communicates any individually  
14 identifiable information (as defined in paragraph  
15 (4)(A)), the disclosure of which is prohibited by sub-  
16 section (a)(2), and that comes into such employee or  
17 staff's possession by reason of employment (or oth-  
18 erwise providing services) under this Act, shall be  
19 found guilty of a class E felony and imprisoned for  
20 not more than 5 years, or fined as specified in sec-  
21 tion 3571 of title 18, United States Code, or both.

22 (3) TEMPORARY STAFF.—The Commissioner  
23 may utilize temporary staff, including employees of  
24 Federal, State, or local agencies or instrumentalities  
25 (including local educational agencies), and employees

1 of private organizations to assist the Center in per-  
2 forming its responsibilities, but only if such tem-  
3 porary staff are sworn to observe the limitations im-  
4 posed by this section.

5 (4) DEFINITIONS.—For the purposes of this  
6 section—

7 (A) the term “individually identifiable in-  
8 formation” means any record, response form,  
9 completed survey, or aggregation thereof from  
10 which information about particular individuals  
11 may be revealed; and

12 (B) the term “report” means a response  
13 provided by or about an individual to an inquiry  
14 from the Center and does not include a statis-  
15 tical aggregation from which individually identi-  
16 fiable information cannot be revealed.

17 (5) VIOLATIONS.—Any person who uses any  
18 data provided by the Center, in conjunction with any  
19 other information or technique, to identify any indi-  
20 vidual student, teacher, administrator, or other indi-  
21 vidual and who knowingly discloses, publishes, or  
22 uses such data for a purpose other than a statistical  
23 purpose, or who otherwise violates subparagraph (A)  
24 or (B) of subsection (a)(2), shall be found guilty of  
25 a class E felony and imprisoned for not more than

1 5 years, or fined as specified in section 3571 of title  
2 18, United States Code, or both.

3 (6) ACCESS TO REPORTS OR RECORDS.—Noth-  
4 ing in this section shall restrict the right of the Sec-  
5 retary, the Comptroller General of the United  
6 States, the Director of the Congressional Budget Of-  
7 fice, and the Librarian of Congress to gain access to  
8 any reports or other records, including information  
9 identifying individuals, in the Center's possession,  
10 except that the same restrictions on disclosure that  
11 apply under paragraphs (1) and (5) of subsection  
12 (b) shall apply to such individuals.

13 **SEC. 9. DISSEMINATION.**

14 (a) GENERAL REQUESTS.—

15 (1) IN GENERAL.—The Center may furnish  
16 transcripts or copies of tables and other statistical  
17 records and make special statistical compilations and  
18 surveys for State and local officials, public and pri-  
19 vate organizations, and individuals.

20 (2) COMPILATIONS.—The Center shall provide  
21 State and local educational agencies opportunities to  
22 suggest the development of particular compilations  
23 of statistics, surveys, and analyses that would assist  
24 those educational agencies.

1 (b) CONGRESSIONAL REQUESTS.—The Center shall  
2 furnish such special statistical compilations and surveys  
3 as the Congress may request.

4 (c) JOINT STATISTICAL PROJECTS.—The Secretary  
5 may engage in joint statistical projects related to the pur-  
6 poses of this Act, or other statistical purposes authorized  
7 by law, with nonprofit organizations or agencies, and the  
8 cost of such projects shall be shared equitably as deter-  
9 mined by the Secretary.

10 (d) FEES.—

11 (1) IN GENERAL.—Statistical compilations and  
12 surveys under this section, other than those carried  
13 out pursuant to subsections (b) and (c), may be  
14 made subject to the payment of the actual or esti-  
15 mated cost of such work.

16 (2) FUNDS RECEIVED.—All funds received in  
17 payment for work or services described in this sub-  
18 section may be used to pay directly the costs of such  
19 work or services, to repay appropriations that ini-  
20 tially bore all or part of such costs, or to refund  
21 excess sums when necessary.

22 (e) ACCESS.—

23 (1) OTHER FEDERAL AGENCIES.—The Center  
24 shall, consistent with section 8, participate with  
25 other Federal agencies having a need for educational

1 data in providing access to educational data received  
2 by the Center.

3 (2) INTERESTED PARTIES.—The Center shall,  
4 in accordance with such terms and conditions as the  
5 Secretary may prescribe, provide all interested par-  
6 ties, including public and private agencies and indi-  
7 viduals, direct access to data collected by the Center  
8 for the purposes of research and acquiring statistical  
9 information.

10 **SEC. 10. COOPERATIVE EDUCATION STATISTICS SYSTEMS.**

11 The Commissioner may establish one or more na-  
12 tional cooperative education statistics systems for the pur-  
13 pose of producing and maintaining, with the cooperation  
14 of the States, comparable and uniform information and  
15 data on elementary and secondary education, postsecond-  
16 ary education, and libraries, that are useful for policy-  
17 making at the Federal, State, and local levels. In carrying  
18 out this section, the Commissioner may provide technical  
19 assistance, and make grants and enter into contracts and  
20 cooperative agreements.

21 **SEC. 11. NATIONAL ASSESSMENT OF EDUCATIONAL**  
22 **PROGRESS.**

23 (a) ESTABLISHMENT.—The Commissioner shall, with  
24 the advice of the National Assessment Governing Board  
25 established by section 12, carry out, through grants, con-

1 tracts, or cooperative agreements with one or more quali-  
2 fied organizations, or consortia thereof, a National Assess-  
3 ment of Educational Progress (hereafter in this Act re-  
4 ferred to as the “National Assessment”).

5 (b) PURPOSE; STATE ASSESSMENTS.—

6 (1) PURPOSE.—The purpose of the National  
7 Assessment is to provide a fair and accurate presen-  
8 tation of educational achievement in reading, writ-  
9 ing, and the other subjects included in the third Na-  
10 tional Education Goal, regarding student achieve-  
11 ment and citizenship. The Commissioner, in carrying  
12 out the National Assessment, shall use sampling  
13 techniques that produce data that are representative  
14 on a national and regional basis and on a State  
15 basis pursuant to paragraph (2). In addition, the  
16 Commissioner shall—

17 (A) collect and report data on a periodic  
18 basis, but at least once every 2 years, on stu-  
19 dents at ages 9, 13, and 17 and in grades 4,  
20 8, and 12;

21 (B) report achievement data on a basis  
22 that ensures valid and reliable trend reporting;

23 (C) include information on special groups;  
24 and

1 (D) ensure that achievement data are  
2 made available on a timely basis following offi-  
3 cial reporting, in a manner that facilitates fur-  
4 ther analysis.

5 (2) STATE ASSESSMENTS.—

6 (A) IN GENERAL.—The Commissioner, in  
7 carrying out the National Assessment, may con-  
8 duct State assessments of student achievement  
9 in grades 4, 8, and 12.

10 (B) STATE PARTICIPATION.—States wish-  
11 ing to participate in State assessments shall  
12 enter into an agreement with the Secretary pur-  
13 suant to subsection (d)(2). Such agreement  
14 shall contain information sufficient to give  
15 States full information about the process for  
16 consensus decisionmaking on objectives to be  
17 tested, required in section 12(e)(5), and of the  
18 standards for sampling, test administration,  
19 test security, data collection, validation, and re-  
20 porting.

21 (C) STATE REVIEW AND RELEASE OF RE-  
22 SULTS.—A participating State shall review and  
23 give permission for the release of results from  
24 any test of its students administered as a part  
25 of a State assessment prior to the release of

1           such data. Refusal by a State to release its data  
2           shall not restrict the release of data from other  
3           States that have approved the release of such  
4           data.

5           (3) PROHIBITED DATA.—In carrying out the  
6           National Assessment, the Commissioner shall not  
7           collect any data that are not directly related to the  
8           appraisal of educational performance, achievement,  
9           and traditional demographic reporting variables, or  
10          to the fair and accurate presentation of such infor-  
11          mation.

12          (4) TECHNICAL ASSISTANCE.—In carrying out  
13          the National Assessment, the Commissioner may  
14          provide technical assistance to States, localities, and  
15          other parties.

16          (c) ACCESS.—

17               (1) PUBLIC ACCESS.—Except as provided in  
18               paragraph (2), the public shall have access to all  
19               data, questions, and test instruments of the National  
20               Assessment.

21               (2) PERSONALLY IDENTIFIABLE INFORMA-  
22               TION.—

23                       (A) IN GENERAL.—The Commissioner  
24                       shall ensure that all personally identifiable in-  
25                       formation about students, their educational per-

1 formance, and their families, and that informa-  
2 tion with respect to individual schools, remains  
3 confidential, in accordance with section 552a of  
4 title 5, United States Code.

5 (B) SPECIAL RULE.—Notwithstanding any  
6 other provision of law, the Secretary may de-  
7 cline to make available to the public for a pe-  
8 riod, not to exceed 10 years following their ini-  
9 tial use, cognitive questions that the Secretary  
10 intends to reuse in the future.

11 (C) TEST INSTRUMENTS.—The Secretary  
12 may, upon the request of a State educational  
13 agency or a local educational agency, make Na-  
14 tional Assessment test instruments available for  
15 assessing aggregate student achievement at the  
16 school or school district level. Before receiving  
17 such instruments, an agency shall provide as-  
18 surances, satisfactory to the Secretary, that se-  
19 curity requirements and testing protocols, pre-  
20 scribed by the Commissioner, will be complied  
21 with in the use of such instruments.

22 (d) PARTICIPATION.—

23 (1) NATIONAL AND REGIONAL.—Participation  
24 in the national and regional assessments by State  
25 and local educational agencies shall be voluntary.

1           (2) STATE.—Participation in assessments made  
2           on a State basis shall be voluntary. The Secretary  
3           shall enter into an agreement with any State that  
4           desires to carry out an assessment for the State  
5           under this subsection. Each such agreement shall  
6           contain provisions designed to ensure that the State  
7           will—

8                   (A) participate in the assessment; and

9                   (B) pay from non-Federal sources the non-  
10           Federal share of participation.

11           (3) NON-FEDERAL SHARE.—

12                   (A) IN GENERAL.—For each fiscal year,  
13           the non-Federal share for the purpose of para-  
14           graph (2)(B) shall be—

15                   (i) the cost of conducting the assess-  
16           ment at the school level for all public  
17           schools in the State sample;

18                   (ii) the cost of coordination within the  
19           State; and

20                   (iii) other reasonable costs specified  
21           by the Secretary in the agreement de-  
22           scribed in paragraph (2).

23                   (B) SPECIAL RULE.—The non-Federal  
24           share of payments under this paragraph may be  
25           in cash or in kind, fairly valued.

1           (C) ADMINISTRATIVE COSTS.—The agree-  
2           ment described in paragraph (2) shall describe  
3           the manner in which the costs of administering  
4           the assessment to private nonprofit schools in-  
5           cluded in the State sample may be met.

6           (e) REVIEW OF NATIONAL AND STATE ASSESS-  
7           MENTS.—The Secretary shall provide for continuing re-  
8           views of both national and State assessments, including  
9           evaluation studies by the Center and solicitation of public  
10          comment on the conduct and usefulness of the National  
11          Assessment. The Secretary shall report to the Congress,  
12          the President, and the Nation on the findings and rec-  
13          ommendations of such reviews. The Commissioner shall  
14          consider the findings and recommendations in designing  
15          the competition to select the organization, or organiza-  
16          tions, through which the Office carries out the National  
17          Assessment.

18          (f) COVERAGE AGREEMENTS.—

19               (1) DEPARTMENT OF DEFENSE SCHOOLS.—The  
20          Secretary and the Secretary of Defense may enter  
21          into an agreement, including such terms as are mu-  
22          tually satisfactory, to include in the National Assess-  
23          ment elementary and secondary schools operated by  
24          the Department of Defense.

1           (2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—  
2           The Secretary and the Secretary of the Interior may  
3           enter into an agreement, including such terms as are  
4           mutually satisfactory, to include in the National As-  
5           sessment schools for Indian children operated or  
6           supported by the Bureau of Indian Affairs.

7   **SEC. 12. NATIONAL ASSESSMENT GOVERNING BOARD.**

8           (a) ESTABLISHMENT.—There is established the Na-  
9           tional Assessment Governing Board (hereafter in this Act  
10          referred to as the “Board”), which shall formulate policy  
11          guidelines for the National Assessment.

12          (b) MEMBERSHIP.—

13               (1) APPOINTMENT AND COMPOSITION.—The  
14          Board shall be appointed by the Secretary and be  
15          composed of—

16                       (A) two Governors, or former Governors,  
17                       who shall not be members of the same political  
18                       party;

19                       (B) two State legislators, who shall not be  
20                       members of the same political party;

21                       (C) two chief State school officers;

22                       (D) one superintendent of a local edu-  
23                       cational agency;

24                       (E) one member of a State board of edu-  
25                       cation;

1 (F) one member of a local board of edu-  
2 cation;

3 (G) three classroom teachers representing  
4 the grade levels at which the National Assess-  
5 ment is conducted;

6 (H) one representative of business or in-  
7 dustry;

8 (I) two curriculum specialists;

9 (J) three testing and measurement experts,  
10 who shall have training and experience in the  
11 field of testing and measurement;

12 (K) one nonpublic school administrator or  
13 policymaker;

14 (L) two school principals, of whom one  
15 shall be an elementary school principal and one  
16 shall be a secondary school principal; and

17 (M) four additional members who are rep-  
18 resentatives of the general public, including par-  
19 ents.

20 (2) ASSISTANT SECRETARY FOR EDUCATIONAL  
21 RESEARCH.—The Assistant Secretary for Edu-  
22 cational Research and Improvement shall serve as  
23 an ex officio, nonvoting member of the Board.

24 (3) SPECIAL RULE.—The Secretary and the  
25 Board shall ensure at all times that the membership

1 of the Board reflects regional, racial, gender, and  
2 cultural balance and diversity and that the Board  
3 exercises its independent judgment, free from inap-  
4 appropriate influences and special interests.

5 (c) TERMS.—Members of the Board shall serve for  
6 terms not to exceed 4 years which shall be staggered, as  
7 determined by the Secretary. Any appointed member of  
8 the Board who changes status under subsection (b) during  
9 the term of the appointment of the member may continue  
10 to serve as a member until the expiration of such term.

11 (d) VACANCIES.—As vacancies occur, new members  
12 of the Board shall be appointed by the Secretary from  
13 among individuals who are nominated by the Board after  
14 consultation with representatives of the groups listed in  
15 subsection (b)(1). For each vacancy, the Board shall nomi-  
16 nate at least 3 individuals who, by reason of experience  
17 or training, are qualified in that particular Board vacancy.

18 (e) DUTIES.—

19 (1) IN GENERAL.—In carrying out its functions  
20 under this section the Board shall—

21 (A) select subject areas to be assessed  
22 (consistent with section 11(b)(1));

23 (B) identify appropriate achievement goals  
24 for each age and grade in each subject area to  
25 be tested under the National Assessment;

1 (C) develop assessment objectives;

2 (D) develop test specifications;

3 (E) design the methodology of the assess-  
4 ment;

5 (F) develop guidelines for analysis plans  
6 and for reporting and disseminating results;

7 (G) develop standards and procedures for  
8 interstate, regional, and national comparisons;  
9 and

10 (H) take appropriate actions needed to im-  
11 prove the form and use of the National Assess-  
12 ment.

13 (2) DELEGATION.—The Board may delegate  
14 any of the Board’s procedural and administrative  
15 functions to its staff.

16 (3) COGNITIVE ITEMS.—The Board shall have  
17 final authority on the appropriateness of cognitive  
18 items.

19 (4) BIAS.—The Board shall take steps to en-  
20 sure that all items selected for use in the National  
21 Assessment are free from racial, cultural, gender, or  
22 regional bias.

23 (5) GOALS STATEMENTS.—Each learning area  
24 assessment shall have goal statements devised  
25 through a national consensus approach, providing

1 for active participation of teachers, curriculum spe-  
2 cialists, local school administrators, parents, and  
3 concerned members of the general public.

4 (f) PERSONNEL.—

5 (1) IN GENERAL.—In the exercise of its respon-  
6 sibilities, the Board shall be independent of the Sec-  
7 retary and the other offices and officers of the  
8 Department.

9 (2) STAFF.—The Secretary may appoint, at the  
10 direction of the Board, such staff as the Board re-  
11 quires. Such appointments may include, for terms  
12 not to exceed 3 years, without regard to the provi-  
13 sions of title 5, United States Code, governing ap-  
14 pointments in the competitive service, not more than  
15 6 technical employees to administer this subsection,  
16 who may be paid without regard to the provisions of  
17 chapter 51 and subchapter III of chapter 53 of such  
18 title relating to classification and General Schedule  
19 pay rates.

20 (g) COMMISSIONER REPORTS.—The Commissioner  
21 shall report to the Board at regular intervals on the De-  
22 partment's actions to implement the decisions of the  
23 Board.

24 (h) ADMINISTRATION.—

1           (1) LIMITATION.—Not to exceed 10 percent of  
 2           the funds available for the National Assessment for  
 3           any fiscal year may be used for administrative ex-  
 4           penses (including staff, consultants, and contracts)  
 5           and to carry out the Board’s duties described in sub-  
 6           section (e).

7           (2) APPLICABILITY OF THE FEDERAL ADVISORY  
 8           COMMITTEE ACT.—For the purposes of its adminis-  
 9           trative functions, the Board shall have the authori-  
 10          ties authorized by the Federal Advisory Committee  
 11          Act and shall be subject to the open meeting provi-  
 12          sions of that law.

13 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

14          There are authorized to be appropriated such sums  
 15          as may be necessary for each of the fiscal years 1995  
 16          through 1999 to carry out this Act.

17 **SEC. 14. REPEAL.**

18          Section 406 of the General Education Provisions Act  
 19          (20 U.S.C. 1221e-1) is repealed.

○

S 1835 IS—2

S 1835 IS—3